

TAX-EXEMPT FOUNDATIONS

WEDNESDAY, JUNE 2, 1954

HOUSE OF REPRESENTATIVES,
SPECIAL COMMITTEE TO INVESTIGATE TAX-EXEMPT FOUNDATIONS,
Washington, D. C.

The special committee met at 10:10 a. m., pursuant to recess, in room 301, New House Office Building, Hon. B. Carroll Reece (chairman of the special committee) presiding.

Present: Representatives Reece (presiding), Goodwin, Hays, and Pfost.

Also present: Rene A. Wormser, general counsel; Arnold T. Koch, associate counsel; Norman Dodd, research director; Kathryn Casey, legal analyst.

The CHAIRMAN. The committee will come to order.

Mrs. PFOST. Mr. Chairman, before we begin our hearings this morning, I should like to make certain proposals.

When I was appointed a member of this committee, I assumed I was to be allowed to participate fully in its work. I thought that on this committee, as on other committees, I would be informed in advance of the subject matter to be discussed at the hearings so I could bring to them such perceptions and knowledge of the subject as I might have, and to make use of them. Instead, I find myself sitting here hour after hour and day after day, listening to controversial and oftentimes confused testimony, and trying to piece together bit by bit its substance and its conclusions in almost the same manner as would a visitor in this committee room. It is a very unsatisfactory use of my time and a waste of the taxpayers' money.

Now, as the chairman and members of this committee well know, when a jury is asked to render a verdict in a court trial, the counsel for both sides present an outline of their case and in the opening statement before the evidence is given. Likewise, when a case on appeal is presented to a reviewing court, briefs are furnished well in advance of the hearing in order that the court may be advised of the nature of the case. These are not idle requirements—they are wise provisions growing out of centuries of experience to insure the court and jury the best possible opportunity to understand how each piece of evidence and argument presented to them fits into the whole picture.

This committee is being asked to sit in a capacity similar to that of a court or jury. We are having a story presented to us. We have a counsel and trained lawyers. But have we received testimony sufficiently in advance to enable us to acquaint ourselves with its nature? Have we ever been briefed by the staff on the overall picture? Have we ever been told in advance the general outline of what a witness is going to say—the significance of his testimony and how it fits into

the whole picture? This has not been done, and why not, Mr. Chairman?

This committee was formed about 10 months ago. During the greater part of that time the Federal Government has been paying out tens of thousands of dollars for the services of the committee staff. If the staff has not had time during these months to prepare accurate outlines and studies for these hearings, let us adjourn until such time as the staff is ready. If our pace since the hearing started has been too speedy, then let us slow down.

If it is not lack of time, then is it, as I suspect, carefully planned strategy to prevent certain members of this committee from preparing themselves in advance for these hearings? If this is so, why is it so? Surely the members of the staff are not afraid to have their work examined. Could it be possible that there is a design in the making, the nature of which those in control of this committee wish to keep secret? And is that design to present one side of the picture only—without rebuttal testimony immediately following which perhaps could change the picture considerably?

I am becoming increasingly alarmed by the manner in which these hearings are being conducted. If, as it now appears, this is not to be an objective inquiry to get the facts, but rather a sounding board for propounding loaded evidence, then let us find out right now.

Now, Mr. Chairman, I move that these hearings be adjourned until such time as the whole committee has been thoroughly briefed as to the nature of this inquiry, namely: (1) The points to be considered; (2) the present schedule of witnesses to be called throughout the entire hearings; and (3) the length of time it is expected that the hearings will consume.

I also embody in my motion the request that all committee members be given the names of those who will testify at least a week in advance of their appearance here, together with an outline of what they are going to say.

Now, I do not desire to be an obstructionist, nor will I be, but neither am I willing to sit here in the dark day after day, merely to constitute a quorum. I want to know what is going on—and why.

Mr. Chairman, I should like an answer to my questions and a vote on my motion before we proceed further with these hearings this morning.

THE CHAIRMAN. Mrs. Pfost, there is no indisposition to give you an answer to any questions you may have propounded in the prepared statement which has been presented, nor will there be any indisposition to give you a vote on the motion, although the Chair does question the propriety of the motion at this time. It seems to the chairman that the committee has followed the orderly procedure. The staff has on numerous occasions discussed with the committee the course of the inquiry, and in an overall way the subject matter that was intended to be presented to the committee as a direction of the inquiry to be made. In the very opening session, the Director of Research made a presentation to indicate the results of certain preliminary studies, and then called witnesses who presented criticisms of the foundations, and it was intended and it is the purpose of the committee to complete the hearing of those who do have criticisms of the foundations. Then the foundations and representatives of the

foundations and others whom the committee might decide should appear to develop all of the facts.

Knowing the criticisms that had been made, they would appear and give testimony to develop the whole picture, which has seemed to me, as chairman, to be a logical procedure. It seemed to the committee to be a logical procedure, and I might say, to the foundations with which it has been discussed, it has appeared to be logical procedure.

I don't look upon this as a court or as a trial. This is an inquiry. This is a study group to develop the facts connected with this very important question. We have, as I stated in my earlier statement, some 7,000 foundations in the United States, with resources of about \$7 billion, possibly considerably in excess of that, with a national income in excess of \$300 million, most all of which has been made possible through tax exemptions. Therefore, the Congress and the people have a very proper interest in determining and ascertaining whether these very vast sums derived from tax exemptions are being spent in accordance with the tax-exemption statutes, and whether they are being spent in accordance with the best interests of the country.

Certainly the manner of procedure has been a well-adopted type of procedure in an inquiry of this nature. While it may not be particularly pertinent to the question which you raise, so far as I am concerned, and I am satisfied that is true of the members on my right, we have tried to be entirely objective in our procedure, and in developing this information. So far as I am concerned, I am not representing any cause or any side. Neither do I look upon this as an investigation of foundations primarily. It is an investigation of the activities of foundations to ascertain whether those activities are in accordance with the law and with the best interests of the country.

Does anyone wish to be heard on the motion?

Mr. Hays. Mr. Chairman, I have just seen this question about 5 minutes before the committee came into session. It seems to me that Mrs. Pfost has made some very pertinent points that I would be inclined to agree with, and I would like at this time to second her motion.

I would like to take issue, Mr. Chairman, with at least one point you made. That is, that you said that this was a study to get the facts. I hope that is what it is, and I believe that you believe that is what it is. But I would like to point out, Mr. Chairman, that up to now—I hope this morning, and I believe this morning we perhaps will get some facts when we get to the witness—up to now so far we have had a series of people on the stand who have been sworn and who have testified to their opinion. I submit to you, Mr. Chairman, that is a very unusual procedure, that it is not a well-adopted type of procedure, that it is so unusual that I don't think you can ever find any records of any committee of Congress before who has spent 3 weeks listening to sworn opinions.

I submit to you, Mr. Chairman, that opinions have no force and effect unless the committee or whoever is listening to the opinions has a great deal of respect for the person whose opinions are being stated. Even then they will just continue to be opinions.

I would be interested in knowing, Mr. Chairman, before we vote on this motion, if there is any information available as to whether

in all of the college professors, we will say, that the staff must have contacted, there have been any of them who have expressed a difference of opinion from the ones that we have had in here, Professors Briggs and Hobbs, and if so, whether the staff has any plans to call any 1 or 2 or 3 of them and let us hear what they have to say.

Mr. Chairman, I won't attempt to spring any traps on anybody. I have here in my possession the head of the political science department of one of the great universities—

(The chairman rapped the gavel.)

Mr. HAYS. Just let me finish my statement. You are not going to stop me by that. You can break that thing.

The CHAIRMAN. You are talking about springing traps.

Mr. HAYS. I am saying I am not trying to.

The CHAIRMAN. You have cast slurs on this chairman. I have determined that I was not going to lose my good disposition.

Mr. HAYS. I will pardon you for a momentary loss of it. It is quite all right.

The CHAIRMAN. I am not going to do it. But from now on this committee is going to be conducted in accordance with rules of procedure.

Mr. HAYS. Now, Mr. Chairman, perhaps you have been looking at television too much, but I think I have told you before and I will try very kindly to tell you again, that you can bang your gavel all you please, but you are not going to silence me when I think I have something pertinent to say.

Let me say I am not casting any aspersions on you, Mr. Chairman, and you certainly lost your temper a little too quickly. I pardon you for it. I want to say that I compliment you that you have maintained very good control up to this point. All I started to say is that I have a letter from a professor of political science, who is the head of a political science department of one of the great universities of the South, who disagrees with the things that have been said here, and who offers voluntarily to come in and tell what he thinks about it. All I was trying to do, Mr. Chairman, is to find out if we have any plans to let people like that come in. I think it is pertinent in view of the motion that Mrs. Pfof has made.

The CHAIRMAN. The chairman is calling an executive meeting as soon as it might be convenient for the committee members to attend, hoping that it may be tomorrow afternoon, at which time these matters will be discussed, and when we will not have the pleasure of being on television. It happens, however, since you made reference to my having observed television too much, that I am one man who has not observed television more than 2 or 3 times within the past year, and not at all in connection with the proceedings of this committee. I am not indicating that is not due to any lack of satisfaction I get out of observing television, but I have had other things to do.

Mr. Goodwin?

Mr. GOODWIN. Mr. Chairman, if there is anything this Congress and this committee has not got at the present time it is time to waste. I think we should vote down the motion of Mrs. Pfof in order that we can get along as speedily as we can. I take it from the agenda of the morning that we go on to a little different subject and I assume that the testimony of the morning will come in very nicely at the point and

work in with what Mrs. Pfof has in mind, and then to develop what I had understood was the policy that had been set down by the staff, and approved by the committee, for the conduct of these hearings, namely to hear first and develop the testimony with reference to criticisms which have been made, not of foundations, as the chairman so well said, but the work of foundations, and what they have been doing, and then at the proper time follow this statement and appearances from the foundations themselves.

I think it would be unfortunate if it should be allowed at the proceedings at this particular time when we are getting on. Incidentally, Mr. Chairman, I don't think these lights are helping the committee in the slightest.

Mrs. PFOST. Will my colleague yield?

Mr. GOODWIN. Certainly. I had finished, Mrs. Pfof.

Mrs. PFOST. Thank you. Doesn't my colleague feel that it would be helpful to us, if we knew several days in advance the witnesses that were going to be called, and the subject matter that is going to be discussed, so that we might be better prepared to interrogate the witness at the time he appears here, rather than to pick it up bit by bit as they drop it here as a witness before this committee?

Mr. GOODWIN. I agree with Mrs. Pfof. I understood that was being done, that the staff were furnishing us information.

Mr. WORMSER. Mr. Chairman, may I explain one thing to Mrs. Pfof. Running the schedule of the hearings in the sense of giving witnesses specific days is very difficult. Today, for example, we had expected two witnesses to appear, both of whom are canceled, Mr. Rusk and Mr. Sargent were coming back for cross-examination. The cancellation of witnesses whom I expected to be on the stand for a considerable period of time has happened to us on a number of occasions, and makes it very hard to tell you in advance who we are going to have.

Today we have scheduled the Commissioner of Internal Revenue without much notice, but I don't think that is a very serious difficulty to the committee. The questions you have relating to the tax law itself probably would not need very much preparation. As a matter of fact, the statement is going to be read which covers pretty much the whole situation. It is very difficult to schedule these hearings.

Mrs. PFOST. Mr. Wormser, don't you have some idea of the schedule of witnesses and the people you are planning to call in to testify during the entire length of these hearings?

Mr. WORMSER. Yes, for a certain distance.

The CHAIRMAN. May I interject. Mr. Wormser, I understand the rearrangements are the result of Mr. Rusk's not appearing. As to why he preferred not to appear at this time I have no information, other than that he presumably thought it would be better, as the committee had originally planned, for him to appear in due time after the criticisms had been presented. Again, that was the information that Mr. Rusk transmitted to me. His preference was that criticisms be first presented in accordance with the procedure which the committee is following. At the suggestion of Mr. Hays it was decided to call him this morning and a subpoena was issued.

Mr. HAYS. Mr. Chairman, would you yield right there for a clarifying statement? I think you will agree with me that I stated at that

time I had only 1 or 2 questions to ask Mr. Rusk, and when he wrote the letter down asking to be called later, I believe that you will agree with me that he said in that letter that he was afraid that there would be more questions which would lead into a general discussion, and he had not had time to get all the documents together that he wanted. While he would put himself at the disposal of the committee, he preferred to wait until he had completed his case and been called in at such time as he had. Isn't that the substance of what he said?

The CHAIRMAN. That is the substance, coupled with the fact that all the foundation people have agreed that it was a better procedure to present the criticisms in accordance with the procedure which the committee is following.

Another witness who had been called, I understand, is unable to come. In accordance with the suggestion you have made, you have had the statement that is to be presented by the Internal Revenue Service.

Mrs. PFOST. Mr. Chairman, when did we get it?

The CHAIRMAN. Since these other witnesses are unable to come, it was decided that the staff member, Mr. McNiece, would present his statement. Copies of that the committee members have had, I think, for some few days. I want to compliment the Director of Internal Revenue and his staff for getting their statement up as early as this, in advance of the committee meeting. In my years of experience here, I have more frequently seen the Department representatives bring their mimeographed statements with them and hand them to the members of the committee upon arrival. So I feel very grateful to the Internal Revenue Service.

Mrs. PFOST. I am grateful also to have the complete text. However, maybe you are overlooking one of the points I have made. Surely the staff must have some idea of at least the subject matter that is going to be discussed by these witnesses before they appear. Without some short briefing, we have no idea of what the staff is going to require.

The CHAIRMAN. I might say, if I may, Mrs. Pfost, that this is a statement by the Internal Revenue Service, and not a statement by the staff members. Therefore, we were not in a position to brief you in what the representative of the Director of Internal Revenue Service might say.

Mrs. PFOST. Mr. Chairman, I am speaking of witnesses in general. Certainly my motion has nothing to do with Mr. Sugarman's testimony. Here we have been holding our meetings for 3 weeks. We have had very, very little advance notice of who is coming, the subject matter to be discussed, or to know what the procedure is to be. I don't know who is going to be called tomorrow, or the remainder of the week, or I would not have known had I not called the office yesterday afternoon of the staff members to find out. I didn't even know the routine that we were going to proceed under.

That is the question I am putting in the form of a motion.

The CHAIRMAN. If I may make a further response, neither was the Chairman definite about it, because one of the witnesses that had been summoned is not finding it convenient to appear. So Mr. McNiece is appearing in advance.

Mrs. PFOST. Does not the Chairman have some idea?

Mr. HAYS. Could you tell us who that was?

The CHAIRMAN. Professor Colegrove.

Mr. HAYS. That is all I wanted to know. Up to now I didn't know he was not coming.

The CHAIRMAN. He appeared to have very good reasons which are rather cogent that did not go to his own convenience, I might add.

Mr. HAYS. May I ask one further question? I am very pleased with the advance notice that we have been given on Mr. Sugarman.

Mrs. PFOST. I am, too.

Mr. HAYS. That is the kind of thing we have been asking for here. I would just like to know if we can count on that same sort of prepared statements from the witnesses from now on, even if they bring them in with them? I don't care if I have them in advance. If they bring them along, it is very helpful. I think it is a good precedent.

The CHAIRMAN. When it is convenient to have the prepared statements, they will be prepared and they will be presented to the members of the committee as far in advance as it might be possible for the committee to receive them.

Mr. WORMSER. Mr. Chairman, I would like to say we have one witness coming on Friday, Professor Rowe, who will not have a statement, as far as I know. I have not yet been able to see Mr. Rowe. I have talked to him on the phone. My chief interest in calling him is that he appeared before the McCarran committee, and testified at some length on the foundations, and I think his testimony is very valuable. I don't know what he is going to say.

Mr. HAYS. May we have his full name and where he is from?

Mr. WORMSER. It is David Rowe, of Yale.

The CHAIRMAN. Are we ready for a vote? All in favor of Mrs. Pfost's motion, say "aye."

Mr. HAYS. Aye.

Mrs. PFOST. Aye.

The CHAIRMAN. Opposed, "no."

Mr. GOODWIN. No.

The CHAIRMAN. No. Mr. Wolcott's proxy votes no.

Mr. HAYS. Mr. Chairman, right there, I would like to say this, that the motion would have been lost in any case, because of a tie vote, but the next time the chairman votes a proxy, I am afraid I will have to raise a point of order, and cite the section of the Rules of the House. But I won't at this time.

The CHAIRMAN. If you so desire, that may be done. Who is the first witness?

Mr. WORMSER. Mr. Chairman, Commissioner Andrews, Commissioner of Internal Revenue, and the Assistant Commissioner, Mr. Sugarman. I have called them for several reasons, primarily because I think the committee ought to know what the criteria are that the Bureau uses in determining whether foundation activities cross the line. Mr. Sugarman has a written statement, but I believe Mr. Andrews would like first to make an oral statement. I think they might both be called together.

The CHAIRMAN. Of course that is permissible. Mr. Commissioner, will you and Mr. Sugarman come forward, please?

The procedure which the committee has adopted is to qualify all witnesses, if you don't mind. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Commissioner ANDREWS. I do.

Mr. SUGARMAN. I do.

The CHAIRMAN. First, Mr. Commissioner, I wish to apologize for detaining you, as busy as I know you are, while housekeeping matters have been discussed here.

Commissioner ANDREWS. I might say, Mr. Chairman, that it is not unusual for us before the bar to be sort of innocent bystanders. That is all right with us.

Mrs. PFOST. You make me feel a little better, Mr. Commissioner.

TESTIMONY OF T. COLEMAN ANDREWS, COMMISSIONER OF INTERNAL REVENUE, AND NORMAN A. SUGARMAN, ASSISTANT COMMISSIONER OF INTERNAL REVENUE

Mr. WORMSER. Would you state your name and address for the record, please?

Commissioner ANDREWS. T. Coleman Andrews, 1516 Park Fairfax, Alexandria, Va.

Mr. WORMSER. Mr. Sugarman, would you also, please?

Mr. SUGARMAN. Norman A. Sugarman, 8403 Donnybrook Drive, Chevy Chase, Md.

Mr. WORMSER. I understand, Commissioner, you would like to make an oral statement first?

Commissioner ANDREWS. Yes, sir; I would, if I may, Mr. Chairman, Mrs. Pfost, and gentlemen of the committee.

This, as you probably know, is a pretty technical question, and for that reason the presentation this morning will be made by Mr. Sugarman, who is the Assistant Commissioner in Charge of Technical Matters. However, beforehand, I would like to say just a few things about the matter from the standpoint of the Revenue Service in a general way.

First of all, I would like to assure the committee that we, of course, are aware of the problem involved in this question of exempt organizations. There are tens of thousands of such organizations, in fact,

well over 100,000 of one kind or another. Not all of them, in fact by no means the majority of them, are in the category that constitutes a problem. Nevertheless, the number of them is growing to some extent, and we in our awareness of the situation are trying to do something about it from the standpoint of the jurisdiction that we are supposed to exercise over this type of organization. Formerly the entire matter was handled in the Revenue Service here at the headquarters in Washington. In the general plan of decentralization of the operation of the Revenue Service, however, we have concluded, and I believe wisely, that the best way to get on top of the problem, to the extent that it is a problem, is to decentralize the review and control of these organizations to our field offices. So that now the question of reviewing the returns and dealing with matters pertaining to exempt organizations is under the control of the district directors of which there are 64.

Generally always there is at least 1 district director's office in each State; in some States there are more than 1, which accounts for the fact that there are 64 of them. There all problems dealing with the matter of exempt organizations are handled by the directors when there is precedent for the settlement, or rather determination, of decision in the particular case. If it is a new problem, of course, it has to come to Washington for review, and usually for the answer. Or if it is a problem as to which the director is not satisfied that he is sure just what to do, then he may on his own motion send it in to be reviewed here.

So we are doing something about it, as much as we can, but there is an aspect of this matter that I think should be brought to the attention of the committee as a matter of background.

The Revenue Service is charged primarily, of course, with collecting the revenues. That is not quite as trite as it may sound. As you ladies and gentlemen know, we are today confronted in the Revenue Service with raising the highest level of taxation that the country has ever had. We found ourselves 16 months ago beset with problems of an organizational and managerial nature of the most serious consequences. One of them, of course, is the matter of keeping abreast of what is happening in the case of these exempt organizations.

I have explained just what we have done in order to be sure that we are aware of the operations of these organizations; what has to be done in order to keep track of them, however, is another matter.

Since our problem is primarily one of collecting taxes it must be remembered that when we devote any time at all to keeping abreast of whether or not a corporation once given exempt status continues to be entitled to that status is from our point of view a sterile operation, pretty largely. In other words, by the very nature of the law itself, as you will see from the presentation which Mr. Sugarman will make, we find ourselves in the position in our control of the returns of these corporations where the time that we spend on it is not fully productive and cannot possibly be, it cannot be productive except to a very small

degree under the most optimistic outlook. So as to these corporations or these organizations, we are in the position where contrary to our general experience, where when we carry on enforcement activities, there is a very substantial return on the effort expended; many times, as a matter of fact, the cost of it here, whatever we do, is a matter of spending money for which there is very little return.

We, like all Government organizations, are not surfeited with funds, and we have to divide our funds up in a way that we can make the best use of them. I want you to know, however, that notwithstanding this particular problem as to these particular types of organizations, that we are not slighting this aspect of our operations. We are giving just as much attention and will continue to give it as much attention as its priority in terms of importance demands.

Those are the general observations I would like to make, plus this one. I, of course, could not help but listen with a great deal of interest to what Mrs. Pfof said about the problem of the committee. Obviously, and without undertaking, Mr. Chairman, to inject myself into the policy of the committee, any statement of the kind that we have here this morning naturally would lay a groundwork of the understanding of the problem which we are very happy indeed to provide. I should like to suggest, therefore, if it is in order, that Mr. Sugarman be permitted to read his statement in its entirety, though it is a bit lengthy. I think it would be extremely useful to the members of the committee to see exactly what the situation is from the standpoint of the revenue laws, and what the problems involved are.

Thank you very much.

The CHAIRMAN. Does counsel have any questions?

Mr. WORMSER. I presume you will stay, Mr. Andrews, through Mr. Sugarman's recitation. There may be some questions that I would like to direct to you, instead of Mr. Sugarman, after he is through.

Commissioner ANDREWS. I came with that purpose. We will stay just as long as the committee feels it needs us.

Mr. WORMSER. I suggest Mr. Sugarman go on with his statement.

Mr. HAYS. There are two brief questions in order to clarify in my own mind something the Commissioner said.

One, Mr. Commissioner, did I understand you to say that under the new policy the tax exemption determinations would be under the control of the district directors insofar as they have precedent to guide them?

Commissioner ANDREWS. That is right. In other words, the district directors will have the right to grant exempt status in those situations where it is perfectly obvious from the laws, rules and regulations, and precedents, that there is no question about the organization being entitled to exempt status, the idea, of course, being to avoid loading the headquarters up with just purely routine decisions.

Mr. HAYS. I understand that. But there will be a central control over that, and they will operate very closely in conformity with precedent? In other words, you won't have every director going on his own to grant tax exemption if he thinks so? He has to follow

pretty closely the policies laid down by the Bureau as I understand; is that correct?

Commissioner ANDREWS. That, Mr. Hays, is true as to all of our operations. The field has not been turned loose on its own. One of the fundamental aspects of our form of organization, with the planning and control headquarters in Washington, and the decentralization of operations to the field, is to enable us to better review the decisions of the operating officials and be certain that proper principles and policies are being followed. That would be true in this case.

Mr. HAYS. Thank you. I have just one other question.

I understood, I think, you to say that once the tax-exempt status is granted; that you continue to keep a constant surveillance on that operation, that you don't keep checking them constantly to see whether they are violating their exempt privileges, because, I believe you said, it was a rather sterile operation. But I do assume, if you have any complaint at all, that you give it a recheck; is that correct?

Commissioner ANDREWS. First of all, let me correct the impression I seem to have given you. I don't mean that we don't keep check on them. It is a part of our duty to compare from time to time what is actually taking place with what these organizations said in their charters and other documents they intended to do and upon which their exemption was granted. We will and are carrying out a review of their operations to the extent that we can, and we expect to be able to step that up somewhat considerably from here on out.

Mr. HAYS. Thank you. That does clear it, because I had the other impression.

The CHAIRMAN. In your statement, Mr. Commissioner, you referred to the fact that there were in excess of 100,000 tax-exempt activities of all types. It was my information that there were some 300,000 tax-exempt organizations of all types. I am wondering if that figure is high?

Commissioner ANDREWS. Actually we have not made any detailed analysis of it, but I inquired about that before we came over here, and our present estimate is in the neighborhood of 120,000 of all kinds. That would be churches and colleges and universities and chambers of commerce, and community funds, and that sort of thing.

Mr. Sugarman corrects me to say that would not include all the churches.

Mr. KOCH. Will you venture a guess as to how many are operating under 101, subdivision (6), that being the category we seem to be particularly interested in?

Commissioner ANDREWS. I could not answer that as of today because we have not yet completed our study of that. But in 1946, I believe there were some 14,000 in that category. Of course, it has increased some since then.

Mr. WORMSER. Isn't it true, Mr. Andrews, that the category is so all-inclusive that it makes it rather difficult to extract statistical information about foundations? It includes colleges and various other institutions which are not from the public standpoint foundations.

Commissioner ANDREWS. Yes, that is true. This is one type of activity, frankly, which almost defies accurate statistical analysis. I think the figures that you have already before you, which I understand were put in some time ago, may be relied upon as being at least substantially correct.

The CHAIRMAN. We thank you very kindly, then, if you will be available. You may be seated wherever you think it is most comfortable, or we would be glad to have you sit there with Mr. Sugarman.

Commissioner ANDREWS. If it is agreeable to the chairman, I will stay where I am.

The CHAIRMAN. Very good. The chairman wants to make this one observation, before Mr. Sugarman begins. The difficulty of gathering the statistical data to which the Commissioner referred was one of the reasons that the chairman had in mind, as constituting a basis for this inquiry, the uncertainty of it all, and in view of the importance it was my idea that we ought to get into a position of being able to draw a more accurate picture of it all.

You may proceed.

Commissioner ANDREWS. Mr. Chairman, if I may, I would like to add one thing with respect to what you said. To the extent that we are able to do so, we are ready, willing and anxious to help the committee clarify some of the mystery of this thing. We will do what we can in that direction.

The CHAIRMAN. Thank you.

Do you have any preliminary statement to make in connection with this statement?

Mr. WORMSER. No. I have a number of questions which I think will bring out additional material after Mr. Sugarman has read his statement.

The CHAIRMAN. If it is agreeable to the committee, the committee will permit Mr. Sugarman to complete his statement and then subject himself to inquiry. You may complete your statement uninterrupted.

Mr. SUGARMAN. Thank you, Mr. Chairman. I appreciate your courtesy in letting me read the statement without interruption.

I am happy to have the opportunity to appear before your committee to make this statement as to the application of the tax laws relating to exempt organizations. We in the Revenue Service have been very much interested in your study and are glad to make whatever contribution we can to your deliberations.

We have had several meetings with your counsel, Mr. Wormser, and members of the staff, to explore the background of the matter. I believe that these meetings have been helpful in relating the work of the Revenue Service in the exempt organizations field to the overall responsibilities of the Service.

I would like, therefore, to take a few moments at this time to indicate what that relationship is.

I. THE RESPONSIBILITIES OF THE REVENUE SERVICE FOR TAX COLLECTION AND ADMINISTRATION

The basic job of the Internal Revenue Service is the collection of taxes to finance the operations of Government. The proper performance of this function must not only be the principal concern of the Revenue Service but it is also a matter of vital interest to the Nation.

The taxes—and therefore our principal functions—are imposed by laws enacted by the Congress. There are more than 70 different Federal internal revenue taxes so imposed. These range all the way from taxes on adulterated butter to the surtax on personal holding companies, from taxes on wagers to taxes on wines, and from the taxes you pay on the wages of your household help to taxes on the millions of income of our larger corporations. The collection of these taxes involves the processing of nearly 95 million tax returns. It includes the examination of these returns, the assertion of deficiencies, penalties, and interest, the allowance of refunds, the collection of delinquencies and the conduct of litigation wherever necessary. Back of this, however, is our tremendous job of maintaining voluntary compliance by providing tax forms, instructions and other types of taxpayer assistance.

In seeing that the taxes levied by Congress are paid, the Revenue Service does not seek to act as a regulatory agency. We know full well the importance of taxes in the conduct of business and in other activities; but we do not attempt to tell anyone how to run his business or what financial or personal decisions he should make. Our job is to determine the tax consequences of decisions and actions of others and in so doing to apply the tax laws fairly in accordance with the terms of the statute.

Each of the many tax laws we administer has provisions imposing tax as well as provisions exempting various persons, organizations and transactions from tax. These exemptions are not uniform for all taxes and it is necessary in each instance to determine their application in accordance with the particular rules laid down by Congress as construed by the courts.

The function which these exemption provisions perform in the tax system is to establish the areas of nonliability for tax, and conversely to limit or define the taxable persons or objects. The determination of exemption, therefore, is an adjunct of the machinery for placing all taxable persons and objects on the tax rolls and determining their liability.

In the administration of the tax laws, the determination of exemption follows the pattern generally of procedures for other determinations. The national office of the Revenue Service prepares tax regulations, which are issued with the approval of the Secretary of the Treasury, setting forth the statutory provisions and the basic rules for their implementation. The national office also prepares the forms and instructions which are used by all taxpayers and exempt organi-

zations required to file tax returns, information returns and applications for exemption. The national office also issues rulings and other technical guide materials indicating the application of principles and official interpretations to the facts of various categories of cases. The national office also develops the nationwide policies and objectives of programs for audit and enforcement of liability under the law.

The Revenue Service has a system of regional administration under the general direction of the national office. There are nine regional commissioners each of whom carries out the policies and programs of the national office through field operations conducted by district directors.

The district directors have responsibility for the enforcement of the tax laws in their districts. They receive and process tax returns, conduct the necessary audits and examinations to determine liability, provide taxpayers with opportunities for hearings where there is disagreement, and assess and collect the taxes that are due and owing the Government.

It is incumbent upon persons and organizations claiming exemption from tax to establish their exemption. Organizations claiming exemption must file their applications with district directors' offices. District directors are authorized to determine exemption in routine cases where the application of the statute is clear under already issued regulations and rulings of the national office. Cases which present involved or questionable issues and do not fall in the routine category are referred to the national office for the issuance of a ruling as to whether exemption is proper under the law.

Certain exempt organizations are required to file annual information returns. These are checked against the list of such organizations in the district director's office. The district directors have the responsibility for examining these returns and determining whether the organization is entitled to continued exemption under the law. If upon such examination and review, it is determined that the organization is not entitled to exemption, then the organization is subject to the usual provisions and liability applicable to taxable organizations.

The Internal Revenue Service, however, does not have the final authority to deny exemption to any organization. Where the Service asserts that a tax is owing, its determination may be appealed to one of several courts. This appeal may be made by either of the following procedures: The disputed tax liability may be paid and then suit brought by the taxpayer for refund in a United States district court or in the United States Court of Claims. On the other hand, the party has the right under existing law to choose to appeal an asserted income, estate or gift tax deficiency prior to paying the tax, in which case an appeal is taken to the Tax Court of the United States. An adverse decision rendered by a district court, the Court of Claims, or the Tax Court may be appealed to a higher court in such cases, just as in other tax cases. Accordingly, judicial interpretations play an important role in determining the course of administration of the exemption provisions.

II. TAX LAW PROVISIONS FOR EXEMPTION

As previously indicated the revenue laws contain numerous provisions providing and affecting the exemption of many kinds of organizations and activities. In testimony in 1952 before the Cox committee we filed a compilation, 50 pages in length, containing the text of the various tax law provisions. This indicates the volume and scope of the statutes on this subject which we are obliged to interpret and administer. The terms of each of these provisions are, of course, of paramount importance because they state the tests which the Revenue Service has available to it by statute for determining exemption. However, I shall confine my remarks today to the provisions of law relating to exemption of organizations from the income tax since I believe that these are the provisions in which you are most interested in your current study.

In general, the statutory pattern under the income tax exemption provisions may be described as follows: (a) The granting of exemption to certain organizations; (b) the allowance of related tax benefits in the form of deductions for contributions; (c) limitations imposed on exemption and related tax benefits; and (d) filing and publicity requirements.

A. EXEMPTION PROVISIONS

The principal provisions of the present law governing exemption from tax of organizations, including foundations, are found in section 101 of the Internal Revenue Code. This section exempts from the income tax 18 types of organizations, which come within the limitations stated in the statute. These organizations may be generally described as follows:

Labor, agricultural, and horticultural organizations.¹

Fraternal beneficiary societies.²

Credit unions and certain mutual reserve fund organizations.³

Cemetery companies.⁴

Business leagues, chambers of commerce, real estate boards, and boards of trades.⁵

Civic leagues, and local associations of employees with charitable or educational purposes.⁶

Clubs organized for recreation and pleasure.⁷

Local benevolent life insurance associations, and mutual ditch, irrigation, or telephone companies.⁸

Mutual nonlife insurance companies with gross income \$75,000 or under.⁹

Farmers' cooperatives (which are subject to tax, however, on income not allocated to patrons).¹⁰

Crop financing organizations for farmers' cooperatives.¹¹

¹ See sec. 101 (1).

² See sec. 101 (3).

³ See sec. 101 (4).

⁴ See sec. 101 (5).

⁵ See sec. 101 (7).

⁶ See sec. 101 (8).

⁷ See sec. 101 (9).

⁸ See sec. 101 (10).

⁹ See sec. 101 (11).

¹⁰ See sec. 101 (12).

¹¹ See sec. 101 (13).

Corporations organized to hold property for any other exempt organization.¹²

Corporate instrumentalities of the United States specifically exempted by Congress.¹³

Voluntary employees' beneficiary association.¹⁴

Local teachers' retirement fund associations.¹⁵

Religious or apostolic associations.¹⁶

Voluntary Federal employees' beneficiary associations.¹⁷

Religious, charitable, scientific, literary, or educational organizations.¹⁸

The last category contains the general classification in which we believe this committee is most interested. This category is provided in paragraph (6) of section 101 as follows:

Corporations, and any community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

Religious, charitable and educational organizations have been exempt from income tax in all revenue acts. The language of the present provisions of section 101 (6) has been in effect since 1934. In passing, it may be noted that exemption from income tax carries with it exemption from personal holding company and excess profits taxes. Elective treatment is also provided such organizations as to whether they and their employees will be subject to the social security taxes, and they are exempt from the Federal unemployment tax.

It will be noted that section 101 (6) applies to corporations, community chests, funds and foundations which qualify under the statute. The term "foundation" is not defined in the statute; and for tax purposes a so-called foundation may be an "association" treated as a corporation or may be a trust. The Internal Revenue Code does not seek, or make it necessary, to distinguish between so-called foundations and other organizations for purposes of the exemption statutes.

B. DEDUCTIONS FOR CONTRIBUTIONS TO SECTION 101 (6) ORGANIZATIONS

The full meaning of exemption from income tax as a religious, charitable, etc., organization under section 101 (6) is not apparent without a consideration of those sections of the Internal Revenue Code granting deductions for income, estate, and gift tax purposes for contributions to certain organizations. In general, an exempt status as an educational, charitable, etc., organization will permit contributions to the organization to be deductible for purposes of income, estate and gift taxes.

For income tax purposes, the deduction is generally limited in the case of an individual to 20 percent of his adjusted gross income and in the case of a corporation to 5 percent of its net income.

These percentage limitations do not apply to trusts if they comply with certain conditions under section 162 (a) and section 162 (g) of

¹² See sec. 101 (14).

¹³ See sec. 101 (15).

¹⁴ See sec. 101 (16).

¹⁵ See sec. 101 (17).

¹⁶ See sec. 101 (18).

¹⁷ See sec. 101 (19).

¹⁸ See sec. 101 (6).

the Internal Revenue Code. A trust which satisfies the conditions may deduct the full amount of its gross income which is paid, permanently set aside or used for purposes equivalent to those under section 101 (6). This may actually render the trust not taxable for a period of time, although it does not seek classification as an exempt organization.

Legislation enacted in 1950, however, provides rules under which both exempt organizations and trusts may lose, in whole or in part, the tax advantages heretofore available to them.

C. RESTRICTIONS ON EXEMPTION AND RELATED TAX BENEFITS

The basic limitations on the tax exemption privilege are stated in section 101 (6) itself, which requires that, to qualify for exemption under that subsection, no part of the net earnings of the organization may inure to the benefit of any private shareholder or individual, and no substantial part of its activities may be devoted to carrying on propaganda, or otherwise attempting, to influence legislation. Section 101, as amended by the Revenue Act of 1950, also provides that if an organization is operated primarily to carry on a trade or business for profit, it shall not be exempt on the grounds that its profits are payable to an exempt organization.

Supplement U of the Internal Revenue Code also provides that if an organization exempt under section 101 (6) (other than a church) carries on a trade or business which is unrelated to its exempt function, its exemption is not lost but the income from such business is subject to the income tax. Supplement U was added to the Internal Revenue Code by the Revenue Act of 1950 and was first effective for taxable years beginning in 1951.

Additional restrictions are provided in sections 3813 and 3814 of the Internal Revenue Code, which were also added by the Revenue Act of 1950 and which first became effective for taxable years beginning in 1951. Section 3813 provides that, with certain exceptions, organizations exempt under section 101 (6) shall lose their exemption if they engage in specified prohibited transactions. It should be understood that these transactions are not actually forbidden by the revenue laws but are prohibited only in the sense of being inconsistent with continued tax privileges. These provisions prohibit the creator of the organization, a substantial contributor thereto, or a member of the family of either, or a corporation controlled by either, (1) from receiving a loan of income or corpus of the organization without giving adequate security and reasonable interest, (2) from receiving compensation from the organization except a reasonable allowance for personal services actually rendered, (3) from receiving services from the organization on a preferential basis, (4) from selling a substantial amount of securities or property to the organization for more than adequate consideration, (5) from buying a substantial amount of securities or property from the organization for less than adequate consideration, and (6) from participating with the organization in any other transaction which diverts a substantial amount of income or corpus to such person. Provision is made for appropriate disallowance of deductions for contributions to an organization engaging in such transactions and for subsequent restoration of its exemption where appropriate.

Section 3814 provides that an organization may lose its exemption under section 101 (6) if, in view of its exempt purposes, its total accumulations of income are unreasonable in amount or duration, or are used to a substantial degree for other than exempt purposes, or are invested in such a manner as to jeopardize the carrying out of such purposes.

It should be noted that the prohibitions on certain transactions and against accumulations under sections 3813 and 3814 are not applicable to those organizations exempt under section 101 (6) which are religious organizations, educational organizations with a faculty, curriculum and pupils in attendance at the place of education, publicly supported organizations, and organizations to provide medical or hospital care or medical education or research.

D. FILING AND PUBLICITY REQUIREMENTS

In general, organizations exempt under section 101 (6) are not required to file income tax returns like taxable corporations. Section 54 (f) of the Internal Revenue Code does require, with certain exceptions, that section 101 (6) organizations file annual information returns. These returns call for statements of gross income, receipts, disbursements and other financial information. No return is required to be filed in the case of a religious organization, an educational organization with a curriculum and a body of students present at the place of education, and a charitable organization supported primarily by the general public.

Section 153 of the code also provides that each section 101 (6) organization required to file the annual information return shall also furnish information showing (1) its gross income, (2) its expenses, (3) its disbursements from income for exempt purposes, (4) its accumulation of income in the year, (5) its aggregate accumulations of income at the beginning of the year, (6) its disbursements of principal in current and prior years for exempt purposes, and (7) a balance sheet as of the beginning of the year. The statute requires the above-listed information to be made available by the Department for public inspection.

These requirements of section 153 of the code were added by the Revenue Act of 1950 and first became effective for the taxable years beginning in 1950.

III. INTERPRETATION OF THE TAX EXEMPTION PROVISIONS

The provisions of the tax laws on exempt organizations are subject to the same problems of interpretation and application as other provisions of the tax laws. However, there are two factors which make the problems of interpretation and application unusually difficult under the provisions of section 101 (6) which is the general section granting exemption to charitable, religious, and educational organizations. The first factor is that while the statute uses such terms as "charitable," "scientific," and "educational" as tests for exemption, these terms are not defined in the statute. They are matters on which, obviously, reasonable minds may differ; and they are not terms commonly used in financial or accounting matters so as to have acquired a ready meaning for tax purposes.

The second important factor is that the statutory terms have remained virtually unchanged even though the conditions and circumstances in this country have changed. As indicated earlier, religious, charitable, and educational organizations have been exempt from income tax in all revenue acts. These provisions came into the law at a time when, comparatively, the rates were very low. The courts indicated that while normally provisions exempting taxpayers from tax are to be strictly construed, the exemption under section 101 (6) is to be liberally construed. The Supreme Court in *Helvering v. Bliss* said, in 1934 (293 U. S. 144), that the provisions granting exemption of income devoted to charity are liberalizations of the law in the taxpayer's favor, were begotten from motives of public policy, and are not to be narrowly construed. This approach appears to have dominated judicial thinking in this area. Thus, the courts have held that, while charitable acts normally are considered as being done without recompense or profit, it is not necessary for exemption as charitable that an organization provide its services free of charge;¹⁹ the term "educational" is broader than mere activities such as those of schools and colleges, it includes the encouragement of good citizenship;²⁰ and the term "scientific" is broader than the basic sciences and includes, for instance, improvement of motion picture photography.²¹ The Revenue Service in its administration of the tax laws is, of course, bound to give effect to the principles and interpretations contained in court decisions.

Mr. Wormser, your counsel asked me particularly to discuss today political propaganda and Un-American activity as factors affecting exemption under the income tax laws. I shall be glad to discuss these matters as they are encountered in the interpretation and application of the tax laws.

A. POLITICAL PROPAGANDA

In considering the phrase "political propaganda" from a tax law standpoint, it is first necessary to distinguish between two kinds of organizations which may be regarded as political. The first includes those engaged in political activity in the popular sense of the term, that is the promotion and support of a political party and the support of candidates for office. The second includes those organized and operated primarily for the purpose of promoting principles of government, or are engaged in activities pertaining to the conduct or form of government, or seeking to effect certain systems of administration, or in legislative activities to accomplish these or other purposes.

There is no provision of law exempting political organizations of the first type from Federal income tax. In this connection, attention may be called to the provisions of the income tax regulations which prohibit deduction from gross income for contributions of—

sums of money expended for lobbying purposes, the promotion or defeat of legislation, the exploitation of propaganda, including advertising other than trade advertising, and contributions for campaign expenses * * *.²²

The ban against deductions for such purposes has also been applied by the Supreme Court in the *Textile Mills Securities Corp.* case,²³

¹⁹ Salem Lutheran Home Association, Tax Court memo, op., May 26, 1943.

²⁰ Rose D. Forbes (1927), 7 BTA 209.

²¹ American Society of Cinematographers (1940), 42 BTA 675.

²² Secs. 39.23 (o)-1 and 39.23 (q)-1 of Regulations 118.

²³ *Textile Mills Security Corp. v. Commissioner* ((1941) 314 U. S. 326).

also *Roberts Dairy Co. v. Commissioner*,²⁴ to deductions claimed as trade or business expenses.

Organizations of the second type referred to generally apply for exemption under section 101 (6) of the Code as educational organizations. The determination of whether they are exempt is then made under the statutory language which requires first that they be organized and operated exclusively for educational purposes.

The phrase "political propaganda" as such does not appear in the tax Code or regulations. Nor are the terms "propaganda" and "political" defined in the tax statutes or the regulations. The requirement, that as condition to exemption of an organizing "no substantial part" of its activities "is carrying on propaganda, or otherwise attempting, to influence legislation," was added to the statute by the Revenue Act of 1934. It has remained in the law without change.

The committee reports and the language of the 1934 Act establish that the words "carrying on propaganda" do not stand alone but must be read together with the words "to influence legislation." Thus the law expressly proscribes only that propaganda which is to influence legislation.

Moreover, the statutes does not deny exemption to organizations any part of whose activities is carrying on propaganda, or otherwise attempting to influence legislation, but only to organizations, a substantial part of whose activities is of this nature.

The term "exclusively" is also a troublesome one in attempting to determine whether an organization is organized and operated exclusively for educational purposes. The statute does not define "exclusively." While it would seem to be synonymous with "solely," the courts have interpreted the word much more liberally.

One writer in the tax field has described the precedents as establishing the following rule:

* * * A primary devotion is enough; totality of devotion is not required. The general or predominate purpose is to be considered. Activities which are not * * * educational in themselves, but merely the means of accomplishing the desired purposes, do not prevent the desired purposes from being deemed "exclusive" under the statute. * * * a purpose, "incidental, contributory, subservient, or mediate" to one of the statutory purposes will not prevent an organization from being within the required category.²⁵

Thus, with such terms as "educational," "exclusively," "substantial," and "propaganda" in the statute, there has been a long history of varying interpretations and difficulty in establishing readily definable lines as to exemption of educational organizations and the effect of political activity in determining exemption.

The present Treasury Department regulations contain the following pertinent provisions as to exemption of educational organizations:

An educational organization within the meaning of the Internal Revenue Code is one designed primarily for the improvement or development of the capabilities of the individual, but, under exceptional circumstances, may include an association whose sole purpose is the instruction of the public, or an association whose primary purpose is to give lectures on subjects useful to the individual and beneficial to the community, even though an association of either class has incidental amusement features. An organization formed, or availed of, to disseminate controversial or partisan propaganda is not an educational organiza-

²⁴ C. C. A. 8, 1952, 195 F. (2d) 948.

²⁵ I Paul, *Federal Estate and Gift Taxation* (1942), sec. 12.19.

tion within the meaning of the code. However, the publication of books or the giving of lectures advocating a cause of a controversial nature shall not of itself be sufficient to deny an organization the exemption, if carrying on propaganda, or otherwise attempting, to influence legislation forms no substantial part of its activities, its principal purpose and substantially all of its activities being clearly of a nonpartisan, noncontroversial, and educational nature.²⁶

Of necessity the regulations leave many questions to be resolved in individual cases upon consideration of all the facts and circumstances of each case. In addition, the court decisions must be considered. A brief summary of the trend of judicial decisions under section 101 (6) may therefore be helpful.

Resort to the courts is a natural result of the statute, since it provides much leeway for varied opinions in a field in which persons are likely to have strong personal views. Accordingly, court decisions have been numerous and have played a major role in establishing the scope of the exemption.

In the early days, the Revenue Service tried to resolve cases involving controversial subjects by distinguishing between education on the one hand and propaganda on the other.

The statute was interpreted as requiring disallowance of exemption where there was an attempt to disseminate information about controversial matters or to develop and publicize facts leading to a suggested solution of current social, economic, or other problems.

This was based upon Treasury regulations which held that "associations formed to disseminate controversial or partisan propaganda are not educational within the meaning of the statute." It was held with a few exceptions that an organization was not exclusively educational when either its purposes or activities touched upon a subject thought to be controversial.

Taxpayers very soon began to contest this position and the result was a series of circuit court decisions requiring a considerably broader interpretation of the statute.

An early case involved the American Birth Control League.²⁷

This organization was organized to collect and distribute information about the political, social and economic facts of birth control and to enlist the support and cooperation of statesmen and legislators in effecting repeal and amendment of statutes dealing with its prevention. The Board of Tax Appeals denied deduction of contributions to the League on the ground that it was not "exclusively educational" because it was formed to disseminate propaganda about a controversial matter and engaged in efforts to influence legislation.

In 1930, the court of appeals for the second circuit affirmed, resting its decision on the much more narrow ground that Congress did not intend to subsidize political activities as educational and intimating that the controversial aspect of the subject matter was not significant. The court stated:

* * * The collection and publication of the information * * * was also a legitimate scientific enterprise, like any collection of medical data. We cannot discriminate unless we doubt the good faith of the enterprise.

This raises the only question which seems to us important, which is, whether the league is also agitating for the repeal of laws preventing birth control * * * Political agitation as such is outside the statute * * *.

²⁶ Sec. 39.101 (6)-1 (c) of Regulations 118.

²⁷ *Slee v. Commissioner* (C. C. A. 2, 1930, 42 F. (2d) 184).

Another case²⁸ concerned the deductibility of contributions to the League for Industrial Democracy, organized "to promote an intelligent understanding of the movement for a new social order based on production for use and not for profit" and which to that end, carried on research, published findings and conclusions and promoted debates and discussions on social and economic problems.

The Board of Tax Appeals denied the deduction on the basis that the league dealt with a controversial subject and had an ultimate objective which stamped its activities as partisan.

In 1931, the court of appeals for the second circuit reversed, holding that, in the absence of a definition by Congress, the term "education" was to be given its plain, ordinary meaning of "imparting or acquiring knowledge" and that although the league claimed to have a definite social doctrine, it "had no legislative program hovering over its activities" and was exclusively educational within the usual meaning of the word. The decision followed the Birth Control League case by indicating also that a preconceived objective is not fatal to 101 (6) exemption.

Still a third case²⁹ involved the deductibility for estate tax purposes of two bequests, (1) to an organization to teach, expound, and propagate the ideas of Henry George and (2) to another organization to advocate Mr. George's ideas, to advocate abolition of taxes on industry and its products in favor of a single tax on land, and to promote social intercourse among single-tax people.

The Board of Tax Appeals sustained the Commissioner in toto, holding that a legislative program was outside the intendment of the statute and that each organization had a legislative program.

In a 1932 decision the court of appeals for the second circuit reversed as to the first bequest, holding that the recipient organization was untainted by any legislative program even though the bequest was made as one method of furthering the testator's desire that the principles be enacted into law. The court affirmed disallowance of the second bequest on the implied premise that it is not exclusively educational to disseminate conclusions without facts or to publicize a partisan viewpoint without explaining the reasons.

This decision is also consistent with the Birth Control League case in indicating that education can sometimes go hand in hand with a preconceived objective.

Also, the court seemed to acknowledge a difference between a fair and full statement of facts concerning one side of a disputed question and presenting preconceived opinions unsubstantiated by any basic factual data.

Another precedent setting case involved an income-tax deduction for contributions to the World League Against Alcoholism.³⁰ This organization had as its purpose "to attain, by the means of education and legislation, the total suppression throughout the world of alcoholism * * *."

The Board of Tax Appeals found that despite its stated purpose, the league itself had no legislative program and indulged in no political activities, but denied the deduction on the ground that the organ-

²⁸ *Weyl v. Commissioner* (C. C. A. 2, 1931, 48 F. (2d) 811).

²⁹ *Leubacher v. Commissioner* (C. C. A. 2, 1932, 54 F. (2d) 998).

³⁰ *Cochran v. Commissioner* (C. C. A. 4, 1935, 78 F. (2d) 176).

ization disseminated information about controversial topics which some of its affiliates used in furtherance of legislative purposes.

In a 1935 decision the court of appeals for the third circuit reversed, saying that the league's own purpose to eliminate alcoholism was not controversial, and that, while it gathered and made available facts about prohibition and other controversial issues, it did so impartially and that "the true test is not what the member organizations did with the information supplied by the league, but in what spirit the information is gathered and supplied."

The Board of Tax Appeals has followed these views of the circuit courts. In a case involving the League of Nations Association,³¹ the Board of Tax Appeals stated:

Indeed in the light of the broad meaning of the word "educate," some of the activities of the association were educational, notwithstanding the highly controversial character of the subject.

Other activities were beyond the realm of education, such as the writing of letters to legislators * * *, urging our adherence to the World Court, presenting issues before national political conventions, urging members to select candidates for Congress * * *.

The 1934 amendment to the law by which were added the words "and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," indicated an awareness by the Congress of the tenor of the court decisions already discussed, and by indirection, a reluctance to hold the line on the basis of the narrow interpretation by the Service of the 101 (6) educational exemption.

Congress saw fit only to circumscribe the exemption with a restriction against substantial activities to influence legislation. The committee reports show that as first proposed, the 1934 amendment to the statutes read "and no substantial part of the activities of which is participation in partisan politics or in carrying on propaganda, or otherwise attempting, to influence legislation."³² The words "participation in partisan politics" were stricken from the bill, as enacted. All this reasonably leads to the conclusion that the Congress at that time was reluctant to require a narrow application of section 101 (6) as to "educational" organizations as the Service had at first attempted.

In 1940, the court of appeals for the first circuit held that contributions to the Birth Control League of Massachusetts, affiliated with the American Birth Control League, were deductible after the organization had abandoned any legislative activities.³³

On the basis of these judicial precedents, we must conclude that it is now reasonably established under the law that an organization may have as its ultimate objective the creation of a public sentiment favorable to one side of a controversial issue and still secure exempt status under section 101 (6), provided it does not, to any "substantial" degree, attempt to influence legislation, and provided further that its methods are of an educational nature.

The cases are legion where a fine line must be drawn in determining whether, on the basis of all facts presented, the organization may qualify for a section 101 (6) exemption, or if not, whether it may

³¹ James J. Forstall (1933), 29 B. T. A. 428.

³² S. Rept. No. 553, 73d Cong., 2d sess., p. 26; C. B. 1939-1 (pt. 2) 586, 606.

³³ *Faulkner v. Commissioner* (C. C. A. 1, 1940, 112 F. (2d) 987).

qualify under any other subsection of 101 (such as section 101 (8) which provides for exemption of civic organizations not organized for profit but operated solely for the promotion of social welfare), or whether it does not qualify for any exemption and must, therefore, file income tax returns.

The task is an exceedingly difficult one for the Revenue Service. It is one which we approach with full knowledge of its importance and the necessity for complete objectivity.

B. UN-AMERICAN ACTIVITY

The term "un-American activity" poses some of the same problems in relating it to tax law criteria for exemption as does the term "political propaganda."

The term "un-American" does not appear as such, in the tax laws or regulations. I have no hesitancy in stating, however, that it is the firm policy of the Revenue Service to deny exemption to any organization which evidence demonstrates is subversive.

The determination of the Revenue Service denying exemption must, however, be based on lack of qualification under the terms of the tax law, namely failure to qualify as an organization organized and operated exclusively for educational purposes. It is our belief that an organization which is truly subversive cannot be considered as exclusively educational.

The Revenue Service is advised by the Department of Justice of organizations shown on the Attorney General's subversive list resulting from a determination by the Attorney General under the Federal employee's security program.³⁴

There are no organizations on that list which are also on our list of exempt organizations.

In addition, statutory restriction on exemption is imposed by section 11 (b) of the Internal Security Act of 1950. Under this act all Communist-action and Communist-front organizations are required to register with the Attorney General. Section 11 (b) provides that:

No organization shall be entitled to exemption from Federal income tax, under section 101 of the Internal Revenue Code, for any taxable year if at any time during such taxable year (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board requiring such organization to register under section 7.

Thus far no organizations have been reported to us by the Department of Justice as registered under the Internal Security Act. I understand the Department of Justice is engaged in seeking to require registration of certain organizations. There has been no application of this act to any organization currently exempt under the tax laws.

Accordingly, under the laws administered by the Internal Revenue Service, determinations are not made as to whether an organization is un-American. It is sufficient for denial of exemption if it is determined that the organization does not meet the present statutory tests.

In conclusion, I would like to express appreciation for this opportunity to acquaint you with the work and procedure of the Revenue Service in this important field.

³⁴ Pursuant to Executive Order No. 10450, dated April 27, 1953.

I appreciate your attention to our problems under the tax laws and I hope that my remarks have in turn given you some helpful information.

The CHAIRMAN. Mr. Wormser, do you have some questions you wish to propound?

Mr. WORMSER. Yes. I would like to bring out first, if my understanding of the law is correct, that the only penalty which is imposed for the two major violations, engaging in subversive activity or political activity is a loss of the income tax exemption, and the corresponding right to deduct against income tax for donations to the foundation. The principal of the fund remains and could still be used for subversive or political purposes.

Mr. SUGARMAN. I think I should add this. Of course, the imposition of the tax with interest where it is determined that the organization while claiming exemption has not been exempt, particularly the interest at 6 percent, could become fairly severe, and it is possible that a negligence, a fraud or even criminal penalties could be imposed. I might say that such cases are rare, however.

Mr. WORMSER. If you had the circumstance where the foundation had started and operated for a number of years fully complying with the law, and had gotten into the hands of persons who used it for unhappy purposes, the statute of limitations would bar you.

Mr. SUGARMAN. Yes, that would be the case.

Mr. WORMSER. As counsel of the committee, I am very sympathetic to your difficult problem of drawing lines. There are several areas in which the committee might consider making suggestions to Mr. Goodwin's Committee on Ways and Means to help you out of the difficulty.

Take for example the political activity, where you have a quantitative test, how do you apply that quantitative test? Is it by some rule of percentage of the fund paid out to political purposes, or dollar amount in relation to something else, or do you look at the substance of what they have done?

Mr. SUGARMAN. Mr. Wormser, we have explored many times the possibility of working out some sort of quantitative test. At least thus far we have come to the conclusion we cannot do that as a practical matter, because the nature of the organizations and the type of activities vary so much. As a result, we take a substantive approach, and attempt to look at the totality of operations of the organization and judge the importance of the type of activities in question in the total effect. As I indicated before in a quotation, in regard to the term "exclusively" you will see that the interpretation has been such that it is the primary motivation which is really involved.

Mr. WORMSER. It is an aspect of law on which you might conceivably get some help from the Ways and Means Committee.

Mr. SUGARMAN. Is it an aspect of law on which we have problems, and they are matters on which the most careful judgment must be exercised.

Mr. WORMSER. In connection with the subversive activities, do you apply yourself only to the direct activities of the foundation itself, or do you also check what grants it may have made to subversives or to subversive organizations? Do you take that into account?

Mr. SUGARMAN. Yes, sir. The determination of exemption of course is not merely on the basis of the activities of the organization

itself, but how its funds are used. In that connection when an organization makes contributions or distributions to other organizations, those other organizations in turn must be exempt. Whenever we find an organization which to any noticeable degree is making contributions to nonexempt organizations, we give them a warning letter, and then follow up on that. Usually they abide by the warning letter in order to retain their exemption.

Mr. WORMSER. In that connection, and also in relation to political activity, I would like to go on a bit with Mr. Hays' question. I would like to know in a little detail what steps you actually take in checking these activities. Do you, for example, require them to send you all their publications? The mere reports don't of course disclose the substance of what they have done. How do you go about this very difficult job of being a watchdog?

Mr. SUGARMAN. I will be glad to answer that question although I think I will have to break my answer into two parts. The first part relates primarily to our method prior to our authorizing our field offices to take a greater part in this work. That is, prior to October of last year, all of the applications and all of the returns of these organizations came into Washington. That created a tremendous problem for us because the receipt of over 100,000 information returns from these organizations every year of course meant a tremendous task if we were to attempt to screen and examine every one of them. We nevertheless had a program of screening them, and examining as many as we were able to and referring to our field offices for direct field examination of those in which we found any questionable activities or financial items. So that our basic approach has been that through review of their returns, which includes the data as to receipts and disbursements, we would look for signs which would indicate the need for further investigation.

I might add that of course a considerable source of investigation and further study of these organizations is through our careful watching of published reports, including newspaper reports of activities and of course through complaints which we receive from time to time from taxpayers, from various other organizations, and I might say also through Members of Congress.

Mr. WORMSER. Ordinarily, however, you would not see their publications, would you?

Mr. SUGARMAN. No, we do not see all of their publications. I should add that upon the receipt of complaints or publicity which come to our attention, we will ask these organizations to supply additional information to us, and we do follow up on that basis.

I might add, as I say, the second part, that since October of last year we have authorized our field offices to examine these returns and earlier this year, as a matter of fact, just last month, we authorized our directors' offices to take the first step in determining the exempt status of these organizations in passing upon the exemption applications which are now required to be filed with them.

Our purpose in that was to bring to our local offices the responsibility for work which we felt that they, being right on the scene and in a position to know the facts, probably were in a better position than we were in the first instance to assemble the necessary information, and to keep on top of these problems.

Accordingly, they now have the responsibility in the first instance for examining these returns and passing on the exemption applications. We feel that being in their own communities they can know what the local situation is, and be able to keep up much better than we can in Washington the changing scene in terms of the type of activities of these organizations through what they know goes on in the community, the work of important men who may be forming foundations, the newspaper reports, and other things which are available to them locally, and they in the first instance can act as our gatherer of facts and make determinations which are clearly under our established rules and regulations, and then referring to us at the national office those policy questions or controversial areas as to which further guidance is needed.

I might say that our decentralization to our directors' offices of these functions is comparatively new and for that reason we cannot point to any figures which would indicate increased activity, but we believe this will actually accomplish that in a stepped-up program of looking further at these applications and returns, and the activities of these organizations generally.

Mr. WORMSER. Actually, though, you are not adequately staffed and probably could not be to do a complete job of auditing the substance of the performance of these foundations. You rely chiefly on miscellaneous outside information and have to, I suppose.

Mr. SUGARMAN. Mr. Wormser, as the Commissioner has indicated, we must of course balance the matter of the administration of the exempt organizations with the administration of all the other provisions of the Code, and also keeping in mind that our principal job is tax collection. Our experience has indicated that by and large there are comparatively few of the exempt organizations that really stray from the nature of their original exemption. I am not saying that by way of indicating that doesn't mean we don't have to check on them, but I am saying in terms of the revenue consequences our results in this area are comparatively less productive than others. Accordingly, considering the balance of our total activities, and the budget available to us, we do devote as much as we are able to this area. What we are trying to do is by streamlining some of our procedures and by putting more of our activities at the local level to get a greater use of the money that is available so that we can accomplish a greater coverage with the funds now available.

Mr. WORMSER. Let me turn to something else, Mr. Sugarman. In connection with the political activity, what significance do you give to lobbying as such?

Mr. SUGARMAN. Of course, the term "lobbying" is not in our statute, but it is in the regulations in regard to that provision I quoted earlier on the Supreme Court decision in the Textile Mills case that deductions are not permitted for contributions for lobbying purposes. Actually, our statutory base is the language of propaganda or otherwise attempting to influence legislation. The qualification there, of course, is that the statute denies exemption only if a substantial part of the activity of the organization is lobbying. So that the type of general education—public education—which an organization may propagate, which may end up in people expressing their views to the Congress generally, would not come within the cate-

gory of lobbying, unless it is directed particularly to that end or takes the form particularly of letters or telegrams and so forth, from the organization to the Members of the Congress.

Mr. WORMSER. I understand there are some exempt foundations which are actually registered lobbyists.

Mr. SUGARMAN. There may be some that are, Mr. Wormser, but our only control on that is whether or not that is a substantial part of their activities. I would gather that some of them probably registered not because they considered themselves lobbyists in perhaps all senses of the term but out of excess of caution, because they do have occasion to appear before the congressional committees, and others.

Mr. WORMSER. It is a factor, but not conclusive in your determination?

Mr. SUGARMAN. As I indicated before, this term, like others, must be related to the particular activities of the organization, and looking at the totality of its operations to see whether this forms a substantial part of its activities.

Mr. WORMSER. Part of form 990 (a) which the foundations are required to file is confidential, and can be seen only with an Executive order.

Mr. SUGARMAN. That is correct.

Mr. WORMSER. Do you know the history or the origin of that requirement? It seems to me that everything a foundation does as a public trust fund virtually should be susceptible to public scrutiny. I don't understand why that was inserted in the law.

Mr. SUGARMAN. Mr. Wormser, the background of that matter is that this whole subject of public inspection or publicity of information in tax returns has been one which Congress has considered many times, and it goes back to the early history of our tax laws. I can recall from research I have made on the subject that back before the 1920's there was controversy about it and for a time there was legislation to make all tax returns public, and for a time there was a little pink slip which people were to file which was made public, even though the whole return was not. The present law we are operating, section 55 of the Internal Revenue Code, applies to all types of return forms which are filed under the income, estate, and gift taxes, and it is quite clear by stating that such returns shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary of the Treasury and approved by the President.

I might add that there are also provisions which authorize inspection of returns or the obtaining of copies of them by, of course, the taxpayer himself, or by stockholders of corporations, or by the Governor of the State for tax purposes, and by the Ways and Means Committee of the House, the Finance Committee of the Senate, and the Joint Committee on Internal Revenue Taxation, and by select committees of Congress when so specially authorized by a resolution of Congress. However, except for these exceptions, the statute applies across the board to all types of returns in requiring that they be held confidential except upon order of the President and under regulations which are approved by him.

The subject of exempt organizations for the reason you indicate, that is, it is a matter of public support and tax exemption, may be in somewhat of a different category than other types of organizations, and it is for that reason that I think Congress in 1950 did provide

legislation which not only provided for certain types of information to be filed in a return, but also that this information be made public. However, Congress did not seek to eliminate section 55, but merely added these specific provisions which I read to you, which indicated that certain types of information should be made public, and this information is on public inspection in our offices of directors of internal revenue and anyone here of course can by going to such an office obtain that information and look at the return. However, that is a duplicate copy of the return which is filed by the organization. It does not contain all the information which we ask for in the actual return form, and the actual return form then itself is subject to the statutory provisions on secrecy.

I should add that the Revenue Service has been working on this whole subject of publicity. We have in process a study on that matter which, if approved—and I might say that the approval is beyond the Internal Revenue Service, because it requires authority which we do not at the present time have—would provide for a greater publicity or public inspection on the part of the papers, the applications which are filed by these organizations.

Mr. WORMSER. There is, of course, a sharp distinction between 990 (a) and income-tax returns. It is not strictly speaking an income-tax return. It is an information return, is it not?

Mr. SUGARMAN. That is correct.

Mr. WORMSER. And the information which is excluded from public scrutiny includes grants made by the foundation, does it not?

Mr. SUGARMAN. It includes the contributions which are made to the foundation. In other words, the form 990 (a), page 1, provides for reporting of receipts not reported elsewhere on this form, the principle of which is contributions, gifts and grants received. The third page, the duplicate copy, which is the copy which is left on public inspection in the directors' offices, contains much of the same information except that which I referred to, that is, the additional data not otherwise called for, and particularly who made contributions to the organization.

I might say that there are additional schedules and information of course that we will ask for in examining the applications which would not be in the duplicate copy, which is on public inspection.

Mr. WORMSER. Now, Mr. Sugarman, would it not be useful to the bureau, and also possible to serve a public purpose, if section 101 (6) were broken down, separating the foundations, as we ordinarily use the term, from the miscellaneous organizations that are now included in it, because it is conceivable that some things should restrict foundations in the ordinary sense which would not restrict a college, for example. Isn't that possibly a useful suggestion to make to the Ways and Means Committee?

Mr. SUGARMAN. I would have to say that anything that would help to clarify the statute would be to the interest of the sound administration of the tax laws which we would welcome. I would have to say that the form and the manner in which such legislation might be considered is something that is really outside of the province of the Revenue Service because there you get into basic tax policies and related policies, which are a matter for the Secretary of the Treasury, as far as our department is concerned.

Mr. WORMSER. One more question, Mr. Sugarman. There is nothing in the statute which protects the public against the use by foundations or the use of foundations to control business enterprises. You referred to restrictions that the funds of the foundation cannot be invested in such a manner as to jeopardize the carrying out of the foundation's purposes. That I can see might cover some instances in which it might be alleged that because assets were frozen, they could not be properly applied to the foundation purposes. Beyond that, there is nothing in the law which prevents funds being invested as the foundation wishes.

The case of the Duke Foundation has been mentioned. I know of no criticism of the Duke Foundation except as an illustration of something which might be worthy of attention. As I understand it, the trustees of that foundation cannot sell Duke power stock without unanimous consent of the board, which makes it virtually impossible. You have a frozen asset, and one which permits control or partial control of the corporation. There is nothing in the law which in any way prevents that.

Mr. SUGARMAN. Mr. Wormser, I think I would have to say this, that the very nature of a fund or foundation is that it has funds for investment and these may be invested in a business or other type of security.

Mr. WORMSER. Excuse me. Let me put a more extreme case than that. Suppose we had a foundation which had unremunerative assets, which produced no income, which had perhaps a principal value, but produced no income; would you consider that jeopardized the carrying out of the purposes?

Mr. SUGARMAN. If it actually did not produce income, we would be curious as to whether it is making any distributions, and if it is making distributions, what the purposes of those distributions were. Our concern, of course, must be with the activities of the fund or foundation in determining whether or not it is operating for the charitable, educational, or whatever purposes may be that they qualify under the statute. So that the mere fact of not having income would be comparatively unimportant if all the other qualifications under the statute were met which related to how the fund or foundation was being used.

I think I should hasten there to say this, that Congress did provide in 1950 for a tax on unrelated business income. So that the business activities of the 101 (6) organization would be subject to tax, although the tax exemption as to its other activities would not be destroyed. Congress did also provide in 1950 these provisions on prohibited transactions and on undue accumulations. I think I would have to say this, that the problem in that regard is one of drawing a line between the general activities of organizations which are attempting to maintain their funds for exempt purposes, and those which may have other purposes in mind. I think the law has been on the books too few years for us to say whether or not it has accomplished all the purposes that Congress may have intended at that time. I think a little more experience will perhaps be necessary, perhaps a study of further cases, before we would be in a position to say whether there are other problems of that nature.

Mr. WORMSER. Am I correct in my information that Canada has a law prohibiting the ownership of more than 10 percent of any one

enterprise by a foundation? I believe Mr. Hays will be interested in the fact that if it is a fact that they also prohibit more than 10 percent of the foundation funds being used abroad outside of Canada.

Mr. SUGARMAN. I am not personally acquainted with that. I would be very glad to check that item and supply whatever information we can on it.

I might say we have a somewhat related provision in our law, however, which would prohibit the type of investment by a foundation on behalf of a corporation or individual who was the particular contributor which would tend to jeopardize the foundation's funds. You will recall I referred to that provision in section 3813 previously.

Mr. WORMSER. There is no restriction, incidentally, on the percentage or amount of funds spent abroad?

Mr. SUGARMAN. No. The only provision is that it must be a domestic corporation, but it may use its funds abroad.

Mr. KOCH. Just what is there in the information return that would put you on notice that this particular foundation might be engaged in prohibited political propaganda?

Mr. SUGARMAN. I think I would have to say that actually there is very little on our information return.

Mr. KOCH. In other words, naturally you don't ask them, what books have you published, or what pamphlets have you published during the last year. You certainly would not get that. Nor would there be an item in there for a lot of expenditures to a certain printing concern or to a book publisher, probably not even that.

Mr. SUGARMAN. I think I would want to add this, however, that we do ask for information as to the disbursements and the purposes. That information generally comes in attached schedules. There is not room on this form obviously for that type of information. What we attempt to do there is to see whether or not the information is relatively enough complete so that it gives us a lead as to what the organization is doing.

Mr. KOCH. Might it help if your questionnaire, return, or whatever it is, had a question, "State any books or pamphlets that you may have issued during the last year, and the amount you paid for that," because that would be a red flag. Otherwise I think you would never hear of some of these propaganda machines unless somebody from the outside registered a complaint.

Mr. SUGARMAN. I think you would appreciate that that is a very difficult problem, because it is quite obvious, for example, that we would not want one of our great universities to send us each year all the books and so forth that they publish.

Mr. KOCH. No.

Mr. SUGARMAN. The matter is one of selectivity. As I indicated before, as to a great many, by far the largest number of organizations, there is not a particular problem. There are always those that are on the fringe, of course. They are comparatively few in the group. In designing our tax-return forms, and our information-return forms, we try to develop the type of information which will permit us to screen in the first instance those which should be classified for a more intensive audit. There are a number of ways of getting at that problem of the types of organizations that should be investigated in greater detail than the matter of the information they come in through the return.

One of the aspects that we have under consideration is that when these organizations file their applications initially, that is the best time for us to determine the nature of the organization, because usually those that are on the fringe are those of the type that you know at the outset whether or not they are going to be an established community chest or school or college or whether it is going to be one of those that you might from time to time make a more careful examination of. So for that reason our best key is through the application itself with the idea of following up on those applications from time to time.

I might say in that regard there is also the matter of publicly obtaining what leads and information we can through such information as comes to us from the public and press and other sources.

Mr. KOCH. The statute, of course, does not define what political propaganda is, and you have no regulation which would help the foundation in guiding its activities, have you?

Mr. SUGARMAN. We do not have a detailed regulation other than that I read to you. We do, however, publish rulings from time to time in the Internal Revenue Bulletin on matters which attempt to set the precedents and provide the basic guidelines which supplement the regulations, and indicate the interpretations and principles which we are following in deciding individual cases.

Mr. KOCH. On this business that a substantial part must be used, if a certain person whom I won't mention, but who is sitting in this chair, paid \$10,000 for propaganda, I assure you that would be very substantial. But take a \$100 million foundation, if they spent \$10,000 on propaganda, would you say because of the relative importance or the relative degree that that is substantial in my case or in this man's case and not substantial where the company has \$100 million of assets, and maybe \$30 million of income, or \$3 million?

Mr. SUGARMAN. As I indicated before, I don't think we can decide that question by purely dollar amounts. For example, if that \$10,000 were spent for telegrams to members of Congress, that might be substantial.

Mr. KOCH. We are also in the twilight zone when we talk about this term "substantial," aren't we?

Mr. SUGARMAN. Yes, sir.

Mr. WORMSER. Mr. Chairman, I wonder if I might ask Mr. Goodwin whether he would mind as a member of the Ways and Means Committee if I ask Mr. Andrews and Mr. Sugarman if they have any constructive suggestions to offer as to possible changes in the law?

Mr. GOODWIN. I see no objection to that, Mr. Chairman. Both of these gentlemen, of course, understand, as we do—both the Commissioner and Assistant Commissioner Sugarman—that we probably have no jurisdiction over a topic of that sort further than to send over a hint by way of a recommendation to the Ways and Means Committee. I see no objection to their being interrogated. In fact, I would like to see them interrogated on that point.

Mr. WORMSER. I would like to have this opportunity if you have any suggestions for constructive changes in the law to offer them.

Commissioner Andrews. I will undertake to answer that question, Mr. Wormser. It has to be almost completely negative for the reason that while it is true that we have been studying this question for some

months now, we have not yet developed any conclusive ideas that would lead us to suggestions for changes in the law.

Moreover, of course, if we did develop ideas of that kind, we would naturally transmit them to the Secretary for such consideration as he might wish to give them and for forwarding to the Committee on Ways and Means if it were his determination to do so. That is necessitated by the fact that in the division of responsibility in the Treasury Department, the responsibility for changes in legislation is vested in the Under Secretary of the Treasury, and, therefore, any changes or suggestions we would have would go through him, rather than direct from us.

We do not at the present moment have any concrete suggestions to make, and I am not just sure when we will reach that point.

Mr. WORMSER. Then I have only one further suggestion, Mr. Chairman. That is that Mr. Andrews and Mr. Sugarman be invited later to submit any additional statement to the committee which they might think is pertinent to these discussions, if they care to.

The CHAIRMAN. I am sure the committee will be glad to receive any additional information any time they might desire to transmit it.

The Chair has 1 or 2 questions, but anticipating that the other members of the committee might propound those questions, he will recognize Mr. Goodwin.

Mr. GOODWIN. Mr. Chairman—

Mr. HAYS. Mr. Goodwin, would you yield at that point?

Mr. GOODWIN. Certainly.

Mr. HAYS. Before you start, I wonder if we can get some agreement about recessing. The House is in session. I want to be as helpful as I can. I don't want to make any points of order. I would like to get an agreement as to some definite time. I have some commitments during the lunch hour, and I am sure the other members do, and I am sure we don't want to keep Mr. Andrews and Mr. Sugarman waiting around here now or have them come back in an hour when we can't get back, and we can settle that now.

Mr. GOODWIN. I will be very brief. I have just 1 or 2 questions.

The CHAIRMAN. If we have time to finish with him, we could recess for the luncheon period. I am sure it would be convenient to them to do so. I have only 1 or 2 questions in any event which will require a very brief period. I think you and Mrs. Pfof are in the best position to determine how long it will be required to complete with them.

Mr. HAYS. I would say the questions I have would perhaps take as long as Mr. Wormser did, which might run 40 minutes or so.

Mr. GOODWIN. I will be about 3 minutes.

The CHAIRMAN. Why don't we in any event conclude with Mr. Goodwin's questions. Then if you think it will take something like three-quarters of an hour, I would leave it up to you as to whether you prefer to proceed and complete with the questioning before we recess or recess and come back. They have been very generous with their time, but I am sure they will be glad to meet the convenience of the committee.

Mr. HAYS. I think I would be glad to go along with Mr. Goodwin, but I think it would be an imposition to try to complete this all before lunch.

The CHAIRMAN. What is your situation, Mr. Commissioner and Mr. Sugarman?

Commissioner ANDREWS. We can come back after lunch; whatever you ladies and gentlemen wish. It is all right with us.

The CHAIRMAN. Some other considerations have arisen, and if it is convenient for you to come back at 2:45, the committee will recess until 2:45 in this same room.

(Thereupon at 12:05 p. m., a recess was taken until 2:45 p. m., the same day.)

AFTER RECESS

The CHAIRMAN. The committee will come to order, please.

When we adjourned, I think Mr. Hays was about to propound some questions. Mr. Goodwin expects to be here any minute.

TESTIMONY OF T. COLEMAN ANDREWS, COMMISSIONER OF INTERNAL REVENUE, AND NORMAN A. SUGARMAN, ASSISTANT COMMISSIONER OF INTERNAL REVENUE—Resumed

Mr. HAYS. Mr. Sugarman, first let me say that I appreciate the fact that you have made such a concise and well-documented statement. I think it is factual and will add considerable to the understanding of this committee, about the problem which we are trying to investigate. However, I do have a few questions to clarify perhaps in my own mind as much as anything else.

I don't want you to feel that if I am questioning you closely about a certain phase of your testimony that I am doing it in an antagonistic manner. As I say, I think your testimony has been good. It has been the first that I have seen before the committee that has been right to the point, in my opinion. But there are a few things I think it would be well if we had a meeting of the minds on, and any questions I ask you are with that attitude in mind.

Mr. SUGARMAN. Thank you. Could I interrupt? I am sorry to do so. I don't know whether you prefer if we had a microphone. We don't seem to have one this afternoon.

Mr. HAYS. These are the ones we use.

The CHAIRMAN. Will you check, Miss Casey, and see?

Mr. HAYS. I don't think they are working.

On page 2 of your statement, sir, the last complete paragraph on the page, you state that we do not attempt to tell anyone how to run his business, or what financial or personal decisions he should make.

I assume that applies also to foundations, as well as an individual taxpayer?

Mr. SUGARMAN. Yes, sir.

Mr. HAYS. On page 8 of your statement, Mr. Sugarman, you are quoting from paragraph 6 of section 101. I believe this is paragraph 6. "Corporations or any community chest fund or foundation organized and operating exclusively for religious, charitable, scientific, literary, or educational purposes." I am interested in those words "or educational purposes." Do you try to put any interpretation on what educational purposes are?

Mr. SUGARMAN. As I indicated earlier, Mr. Hays, we must attempt to interpret these words just as we do the other words, and what is educational, of course, is a subject on which reasonable men may differ. That is the reason we have had this long history which I

described of litigation—not litigation for litigation's sake, so much, but to attempt to establish ground rules.

As I indicated in the statement, if I can refer for a moment to page 23, I have attempted to summarize there what seems to me what the judicial precedents establish as educational in the area where the term is most difficult to define. It is pretty obvious, I think, what the term means when you talk about an established college, university, or school of some sort. But in the adult educational organizations, those that bring their activities to the public, is where the difficulty lies, and as I have indicated on page 23, in the second full paragraph beginning on that page, that we believe is what the court decisions add up to.

Mr. HAYS. In other words, you are referring now on page 23 in the paragraph which I have marked in my copy on the basis of these judicial precedents?

Mr. SUGARMAN. Yes, sir.

Mr. HAYS. That is an attempt on your part to summarize just what we were talking about back on page 8 about educational purposes?

Mr. SUGARMAN. Yes, sir, that is our summary of what we believe our present law is in the difficult area of the interpretation of the work, I would say.

Mr. HAYS. I have that marked and it seems to me that is a very good summary, and a good liberal interpretation of what must be a very difficult matter to interpret.

Mr. SUGARMAN. That is right.

Mr. HAYS. Right at that point, perhaps I should direct this question to the Commissioner.

Mr. Commissioner, the assistant counsel just before lunch started to develop, or did ask you a question which opened in my mind a rather interesting vista, in which he asked you if you got all the publications of the various foundations. I would assume by that he would take into consideration publications that were written with foundation grants or where the author had a grant or partial grant and so on.

I believe Mr. Sugarman answered by saying that you did not make any attempt to do that, is that correct

Commissioner ANDREWS. Let us put it this way. Usually we can depend upon the public if there is some provision of law that they don't like to be pretty vocal about it. They will write to us. They will write to their Congressmen and Senators, and they will sometimes write to the Treasury Department, if it is a matter of legislation that affects our area of operations.

In this particular case, I think it is safe to say that as to particular organizations, that people might object to, the basis of their complaint is almost invariably some document that the person complaining doesn't like. Consequently, in the course of your normal operations you would accumulate certain documents pertaining to a particular organization which contains statements that the people complaining do not like.

But to answer your question specifically, I would say though it is not a matter of written rule, that if we were to direct any of our field agents to review the record of one of these organizations in the light of what its charter said it was set up to do to compare about what it is actually doing, or what it was supposed to be doing, I would assume as an auditor myself that the auditor would naturally go to at least some of the documents that were published and distributed by that

organization to see how that all ties in with what they profess to be doing.

Therefore, I would say that the answer to the question is not that we do not get that type of information, but rather that it develops and comes in in the ordinary course of our administration of the law, either by complaint from a taxpayer, or in the course of the review by our people who do review the operations to see how they are really operating.

Mr. HAYS. What I was trying to get at, Mr. Commissioner, is that I was wondering if you would want to operate such a department where you had all of these publications coming in, both direct and indirect, and books and pamphlets people may have written who had some connection with the foundation, you would pretty soon be running a censorship department down there.

Commissioner ANDREWS. That aspect of it, I am sorry to say, I didn't get from your original question. I would like to answer that in two ways. In the first place, the physical volume of that sort of stuff would impose a tremendous storage problem upon us. In my opinion, by all odds the vast majority of it would be of no practical benefit to us. In the second place, of course, one of the main problems that we have to be very careful about is that we do not become censors. I know that question came up only recently in connection with a ruling that we had to make. I was a little bit afraid that one word might indicate that perhaps we were setting ourselves up as censors and we changed the word, because we don't want to take that position, and goodness knows, we don't want to be in it.

Mr. HAYS. That is what I wanted to clarify. Although I don't know you except by reputation, I had an idea that would probably be your answer. They say nobody loves a tax collector, and I don't know whether that is true or not—that is an old saw—I am sure you would not want to add to your job of collecting taxes that of being censor.

Commissioner ANDREWS. I have always wondered why people sought the job of tax collector, and I can say for myself I didn't. But it is a job that has to be done, and the most you can hope for is respect. If you attain any popularity, that is just a little dividend.

Mr. HAYS. Let me say to you, sir, that you have the respect of the Congress and the public at large as far as I am able to ascertain.

Commissioner ANDREWS. Thank you, sir.

Mr. HAYS. Before we go back to your statement, there is another little thing that occurred to me that might be interesting to develop along here which might shed a little light on this whole problem. I assume you are aware of the antitrust suit which has been filed against the American Telephone & Telegraph Co. The Government alleges that it is a monopoly. I don't expect you to be completely familiar with it. You know there is such a suit?

Mr. SUGARMAN. I have heard about it, yes, sir.

Mr. HAYS. The A. T. & T. regardless of what suit as well as any other corporation is entitled to deduct from its income tax its expenses, and of course charitable contributions, too, up to 5 percent, is that correct?

Mr. SUGARMAN. Yes, sir.

Mr. HAYS. I won't ask you whether you are a music lover or not, because that is something that has no place in the record, but I might

ask you did you ever hear this Telephone Hour on the radio every Monday night?

Mr. SUGARMAN. I don't think I have recently.

Mr. HAYS. It is a very fine musical program. Let me say I am all for it. I think it is a good program. It has about the best musical talent you can obtain, and I would assume it is pretty costly. I assume they deduct that somehow or other. Do you suppose that would be a business expense? It would not be a charitable contribution, would it? What is your guess?

Mr. SUGARMAN. The cost of advertising, whether it is by radio or television or newspaper generally comes under the heading of business expense, and is deductible under the provisions of the statute which permit the deduction of ordinary and necessary business expenses.

Mr. HAYS. The thing that occurred to me, and the reason for all this is, would a monopoly have any reason to advertise?

Commissioner ANDREWS. I asked Mr. Sugarman to let me answer that question, if you don't mind.

Mr. HAYS. I would be glad to have you answer it.

Commissioner ANDREWS. That comes back, Mr. Hays, to the first question that you asked—I believe it was the first one—about our not wishing to tell anybody how to run his business. In this particular situation, and specifically, I would say that the telephone company knows more about what to do in order to make the people happy with the telephone service that they get than we do. Radio and television are set up as means of communication which have been used extensively, and I suppose probably money wise at least, perhaps almost as extensively as the printed word. I certainly would be the last one to join issue with them over the question of whether or not that was an ordinary or necessary expense.

In the first place, I suppose I would naturally be a little prejudiced about that because I believe in private enterprise, and I think that anything that they can do to build up public good will is all to the good. As a matter of fact, I could make quite a speech about the public relations policy of the telephone company which I happen to think is pretty good. I don't mind admitting that we are trying to model ours to some extent after theirs. If we can achieve the same degree of public acceptance that they have, then I will be a popular tax collector.

Mr. HAYS. Mr. Commissioner, let me say that you and I agree thoroughly about that. I will tell you why I brought that question up. It is simply because there has been a great deal of issue made prior to your appearance in these hearings about the tax loss to the government about not collecting the taxes from these tax exempt foundations. Of course there is a loss. If we did not have any tax exempt foundations, I suppose the Government would collect more taxes. That would automatically follow. But on the other hand, we might lose a lot of things that are pretty good, such as medical research. So the same thing follows with the telephone company, and I am glad that you take the position of not telling them how to run their business. We do lose the money in taxes. On the other hand, you don't want to take the position, and certainly I feel as a Congressman I don't want to take the position, and I assume you would not want to recommend to the Congress, that we take the position of telling the telephone company that you can't do this because we are going to lose tax money.

Commissioner ANDREWS. We don't lose tax money by that.

Mr. HAYS. Maybe not. Maybe we gain it because we collect it from the advertisers.

Commissioner ANDREWS. That is just the point. There is quite a difference between money spent for advertising with a company which in turn is going to report that income for taxation, and money that is paid out in contributions to an organization that does not pay any taxes. In other words, when you make a contribution, let us say, to a community fund, that income at that point ceases to be productive in the form of taxes, except when they get ready to spend that money themselves. So that these things have a very deep and sometimes very intricate and complicated economic path.

The Government itself, however, from a revenue standpoint must look at the thing from the standpoint of how much money is siphoned out of the stream of revenue in the ordinary turnover of money and income if it wants to really find out where it is losing tax revenue. Sometimes these things that are spoken of as tax losses or as items that deprive the Government of revenue do not actually deprive the Government at all. You have to analyze them.

Mr. HAYS. That could be true of foundation expenses, too?

Commissioner ANDREWS. To a large extent foundations might spend their money, for instance, with people who have to pay income tax on it. As a matter of fact, a great many of them do.

Mr. HAYS. In other words, then, we are agreed that you can't just say because they don't directly pay any of the foundations or the A. T. and T., that it is a complete loss to the Government?

Commissioner ANDREWS. I don't think it is a complete loss unless it stops right there, which it seldom does.

Mr. HAYS. That is right. In other words, it keeps on circulating at a certain velocity.

Commissioner ANDREWS. That is right.

The CHAIRMAN. As I understand, the basis for the company's advertising, which will apply even in the case of the telephone company, is that it increases the utilization of its services, and thereby does increase its profits and increases taxes to the Federal Government. The whole purpose of advertising is increased business, whether it is a telephone company or some more competitive business.

Commissioner ANDREWS. I think that is true. I think that probably is one of the reasons why we have more telephones in the United States than all the rest of the world put together.

Mr. HAYS. I want you to understand, Mr. Commissioner, that I was not picking on the telephone company.

Commissioner ANDREWS. I didn't assume that.

Mr. HAYS. I was using that as an example to see if we could get some meeting of the minds on the fact that just because the primary individual, corporation, foundation or whatever it might have been, didn't pay taxes, that immediately all that became sterile and the Government didn't get any return anywhere along the line.

Commissioner ANDREWS. I understood it that we were discussing the principle.

Mr. HAYS. That is correct.

Now, Mr. Sugarman, going back to your statement on page 13, I don't think that this needs any particular further interpretation, but I

just want to remphasize again at the bottom of the page, you say that while normally provisions exempting taxpayers are to be strictly construed, the exemption under section 101 (6) is to be liberally construed. You have certain court decisions which have down through the years set up that policy up, is that right?

Mr. SUGARMAN. That is right.

Mr. HAYS. If you did anything other than construe it liberally, you would be flying in the face of court opinions, would you not?

Mr. SUGARMAN. It is just the fact that any taxpayer who thought we were not applying court decisions could take us to court and presumably would win.

Mr. HAYS. Going on to page 14, you cited this decision—No. 21 for the citation at the bottom of the page—saying that it includes the encouragement of good citizenship.

There is a term—and of course we are going to have trouble defining it—and would you say that term is one that there could be honest differences about as to what constitutes good citizenship?

Mr. SUGARMAN. Yes. Basically as the court indicates it is the same problem as what is education. The purpose of the example is to indicate what I think is fairly obvious, that of course we are not talking solely about classroom instruction when we are talking about education. It can include the type of thing that goes to the adding of the knowledge of people generally.

Mr. HAYS. I will ask you this. We had a witness before the committee who made the rather flat statement that such subjects as teaching social awareness, I would call it, he says they should not mention housing or the lack of it in a classroom, that is not education. You would not get down to that narrow definition of it in your department, would you?

Mr. SUGARMAN. As I have indicated, I don't think the courts would let us under existing laws.

Mr. HAYS. In other words, while the witness may have a perfect right and certainly did have a perfect right to his opinion about that, that that had no place in the curriculum, that is a debatable question on which people might have an honest difference of opinion. If some foundation gave a grant to study housing, you would not say that was proscribed, would you?

Mr. SUGARMAN. Of course, Mr. Hays, I think I would have to say this. Not having heard the testimony of the witness, I would hesitate to comment. He may have been talking, of course about his opinions and concepts of education generally while I of course must talk about the terms of the present statute we operate under, and the court decisions. The only thing I can say is that under the present statute and court decisions, they have so construed the word education liberally as including the discussion of many topics of public interest, and I assume housing would be one of them, although I cannot recall any case that particularly touches on that subject.

Mr. HAYS. I am going out of the chronological order now but I remember one of the tax decisions you cited occurred back in 1932.

Mr. SUGARMAN. Yes, sir. There were a number of them back in the early thirties.

Mr. HAYS. Could you refer to that specific one in 1932. Do you happen perhaps to know more nearly which one it is?

Mr. SUGARMAN. The Leubscher case in 1932, decided by the Court of Appeals for the Second Circuit involved the contributions to an organization, to a corporation to teach and expound single-tax ideas. That may have been the one that you had in mind.

Mr. HAYS. I think that is the one. As I recall it, they said that they could go ahead and teach that. That was not barred or proscribed.

Mr. SUGARMAN. Yes, sir.

Mr. HAYS. Although we might not agree with it, they held it was their right to advocate it.

Mr. SUGARMAN. Yes. They allowed the deduction of the contribution in that particular case up to the point that the organization was not using this material to actually influence legislation. But as long as it was a matter of teaching the subject, even though it had an advocacy involved in it, that it would be entitled to the exemption. But they would stop short and deny the exemption if the organization engaged in legislative activities.

Mr. HAYS. That was a pretty significant case in setting out the whole policy of your Department, wasn't it?

Mr. SUGARMAN. It was one of a series. You will recall in the statement I referred to cases that came up in the first, second, third and fourth circuits. When all those four circuit courts of appeals took the same approach, both the Tax Court and the Revenue Service followed that approach, because litigation became useless.

Mr. HAYS. I am not going to ask you this question. I am merely stating it so you won't think I am trying to be rather involved here. The reason I wanted that particular case cited and the others is because it has been stated here that this whole policy of foundation has been part of a great new deal, fair deal, some kind of a deal, plot. I wanted to get that in the record about this 1932 decision, because I don't think anybody could say it was part of any plot of that kind. It predated. I am not asking you to comment on it one way or another, because I don't want you to get involved in it. I will check on that court and find out its complex and may have something to say about it further along.

Now, I am interested on page 16, Mr. Sugarman, in a little further development of the paragraph which is the first one to begin on that page, starting,

The committee reports and the language of the 1934 act establishes that the words "carrying on propaganda" do not stand alone but must be read together with the words "to influence legislation."

I think it is pretty clear there what you mean and how you operate, but would you want to develop that a little further? In other words, that is the only kind of propaganda that is proscribed by the law, is that correct?

Mr. SUGARMAN. That is the only kind that is expressly proscribed. My only point here is merely a grammatical one, and that is that the statutory provision has the words "or otherwise attempting" surrounded by commas. So if you leave that phrase out, "or otherwise attempting", the statutory provision on that point at least reads simply "no substantial part of the activities of which is carrying on propaganda to influence legislation."

I mention that only because of the interest in the subject or the term "propaganda" and to indicate that in terms of express provi-

sions, the statute refers only to propaganda to influence legislation, and not otherwise to other types of propaganda. In order to complete my answer, however, I would have to say the problem of what is educational is still with us.

As to that point I would have to refer to the previous summary of the judicial precedents in which I indicated that one point which the courts developed was that the organization must not only, as I have indicated on page 23 in that paragraph, the second full paragraph on that page, not to a substantial degree attempt to influence legislation, but also its methods must be of an educational nature. It is on that point we get back to what is an educational method.

Without getting into the term "propaganda", we get into the same problem of whether or not the method smacks of attempting to educate people, to give them the data, the information on which they may draw conclusions, or whether it is merely opinion and so forth which gives some resort to conclusions without the facts.

Mr. HAYS. That leads us into a rather interesting situation. You use the word "propaganda" and the law uses the word "propaganda" and the committee here has used the word "propaganda" and various witnesses. I wonder just what is propaganda. It is conceivable that the word might mean different things to different people, isn't it?

Mr. SUGARMAN. That is correct. As I indicated at the earlier stages the Revenue Service at one time attempted to draw a line between propaganda and education by indicating that organizations engaged in disseminating knowledge or their views on controversial subjects may be engaged in propaganda and not entitled to exemption. The courts felt we should not draw that line into the statute. For that reason, organizations of that sort may now be granted exemptions under the existing judicial precedents.

I think that propaganda problem is one that we pretty well leave alone in the sense that in this area, like many others, we find that attempts to define terms do not help us particularly when we get to actual cases. For example, the matter of sending telegrams to members of Congress to vote a particular way is a pretty concrete example of what we would consider propaganda to influence or otherwise attempting to influence legislation. We can spot that type of activity without worrying about whether it comes under some precise definition of propaganda.

Mr. HAYS. In other words, no matter how we define propaganda, you are not interested in it in your department unless it is for the purpose of influencing legislation as far as these foundations are concerned?

Mr. SUGARMAN. I say we are not interested in the sense of attempting to work out a scientific definition of it. We are interested in activities which some people might regard as propaganda. But we would rather evaluate the particular activities against the precedents we have already, rather than attempt to evaluate against some definition.

Mr. HAYS. Of course, you would be interested in subversive propaganda or Communist propaganda.

Mr. SUGARMAN. Yes, sir; but that is basic, the matter of the subversive activities that are carried on.

Mr. HAYS. The reason I spend some little time on it is that it is a case again, it seems to me, of where we ought to know pretty much

what you mean by it, and what we mean by it, so we know we are talking about the same thing. It is a difficult word to define.

I might say, Mr. Chairman, I would welcome any interruption by you or any other member of committee, or the counsel, if it could be helpful in getting some kind of definition for the purposes of the committee on this word so we are all talking about the same thing. I am not trying to belabor the issue or becloud or befuddle anything.

Mr. GOODWIN. It might occur to me to inquire what is the matter with the interpretation that the service is putting on the definition now?

Mr. HAYS. There is not a thing as far as I am concerned, Mr. Goodwin. The only thing is as you perhaps know as well as I do over the years the word "propaganda" itself in the minds of a good many people has come to have some sort of undesirable connotation. We are not talking about that kind of propaganda.

Mr. GOODWIN. So has a lobbyist. They got around that by saying what is it now, public relations counsel.

Mr. HAYS. I would say that the hearings might have developed this so far, that if it is something you are against and don't agree with, that is propaganda, but if it is something that is for your side, that is merely an attempt to educate the public. Is that right?

Mr. WORMSER. Might I suggest that we ask the Commissioner and the Assistant Commissioner whether they think that an attempt by Mr. Goodwin's committee to define some of these terms in the statute would be useful or make your work more difficult?

Mr. SUGARMAN. I would make just this one comment, Mr. Wormser, that I am sure you will appreciate as a lawyer, that frequently the addition of more words does not necessarily clarify, and I think I would have to withhold judgment on that suggestion, until we had an idea what the legislation might be.

The CHAIRMAN. When you were asked originally whether you had set up standards by which to judge and interpret some of these requirements, you said that you had not, and then you had just made another statement, both of which impressed me, that definitions or standards are difficult to relate to individual cases.

During the course of your discussion—and this relates to the whole subject about which you have been interrogating the Commissioner, Mr. Hays, and the Assistant Commissioner—that they have very difficult problems in setting out definitions or standards that apply to these individual cases as they come up. I can well understand that problem. I am also impressed, as I am sure you are, that many of us who look at it from where we sit have great difficulty keeping our emotions from entering into our estimate of what might be propaganda or what might be education, because in a measure we are affected or might tend to be affected by our own feeling on the subject, whereas we hope always that the Internal Revenue Service and its personnel are entirely objective when it comes to these highly important questions.

Mr. HAYS. I would say generally speaking, Mr. Chairman, that I agree with you, and I certainly think that all the members of the committee, although I don't presume for any other than myself, can appreciate the difficulty with which your Department must sometimes be faced on making some of these determinations.

I notice that you used somewhere along in your prepared statement the fact that there is a mighty fine line or very thin line, or words to that effect, on some of these cases. I can see that. It seems to me that your testimony has indicated that your Department has leaned over backward to prevent any suspicion of censorship or bias on your part from entering into it. I certainly for one want to express my appreciation. I think that is the difference, if I may digress for just a minute or two, between our system and the system in the world that we are fighting. That is, the Government doesn't say that you have to channel everything into our line of research and thinking, and that is perhaps the reason in the battle for scientific knowledge that in order for them to keep up not alone let them be ahead that they have had to resort to spying and stealing secrets, because of the fact that their government acted as an oppressing agent on independent scientific research.

I think that it is all good. Certainly I don't want anything I say or do here or any questions I ask you to make your job more difficult. I am merely trying to get on the record of this committee just how you go about it so the committee can be guided in its search for the facts and its conclusions when it goes to write a report.

I have just one more question.

Mr. WORMSER. Mr. Hays, apropos of that, would you be interested in pursuing this idea, whether we are not putting an extraordinary difficulty on the shoulders of the Bureau in this whole situation? There is no direct taxpayer relief except through the States. I don't know whether it is practical to have it through the Federal machinery. But the Commissioner has the entire burden of testing these various areas. In other words, he has to bring a lawsuit or precipitate one which then has to go to the courts to determine where the line is drawn. He draws it for the moment in arbitrary fashion, but in the end it results in litigation. Maybe there is some way of relieving the Commissioner in part of that very arduous and difficult task. He has to precipitate lawsuits.

Mr. HAYS. Mr. Wormser, I might say to you in partial answer to that, that if the Congress could be helpful in any way that the Commissioner and Treasury Department would like them to be, I am sure it would be the wish of Congress to do it. I think over the years we have found that you can't spell out every single little thing, and you can't in advance try to anticipate all the problems that are going to come up. There is a saying around here on the Hill, and it was here before I came, that Congress has never passed a bad law. If it has been bad, it has been because of bad administration. I will say that is a biased point of view, perhaps, but the point I am trying to make is that we have to give some discretion to the people who do administer the laws that are passed up here.

I think you have made perhaps the best point of all, perhaps inadvertently, that if Mr. Andrews or any preceding or successive Commissioner makes a decision that any particular foundation, taxpayer or individual question, they do have recourse to a final arbiter, who is not the Congress or the Commissioner, but the courts. Certainly Mr. Sugarman in his prepared statement has indicated by a whole series of court decisions how the policy was shaped in conformity with the law and the Constitution and all the things that you take into consideration when you go into court.

If there are any concrete suggestions, as AWS said this morning, that you would have, I am sure that either this committee or the Ways and Means, or some other committee would be glad to consider them.

Mr. WORMSER. This is, of course, only a very small part of the Commissioner's job. The machinery he has for it is very modest. I doubt whether you could get an increased appropriation for watchdogging foundations. Really his office is not geared for the job. I wish somebody would think of a solution which would assist him in that very difficult problem. He hasn't got the manpower really to check these activities; I am sure that is correct, isn't it, Mr. Andrews.

Commissioner ANDREWS. I would say so, yes. I think the problem that you are up against in this particular situation here is the inherently prolific character of human ingenuity.

Mr. KOCH. Could we raise this point? Mr. Hays referred to the 1932 decision, and that was before the statute was amended in 1934 where for the first time they specifically mention propaganda for legislative purposes. Yet without that new amendment in 1934, in 1932, the courts nevertheless disallowed one bequest because it was tainted with a legislative program. So the point I make is this: If the addition of those words merely add to our confusion, it might be better to strike them out, and go back to the original one which merely said educational purposes. There the court said, "Well, if it has a legislative taint, we won't grant the deduction." If we can't decide reasonably what is a good definition of propaganda, maybe we should yank it out of the statute.

Mr. HAYS. That is a very interesting thing, and I would like to hear the Commissioner or Mr. Sugarman or both comment on that. Personally I think that their job would be infinitely more difficult if those words were not in. I would like to hear them express themselves on whether they would like to have it taken out. Personally I don't think it would be good.

Mr. KOCH. I don't know.

Mr. SUGARMAN. I would like to say this one point. The study we made previously of the problem indicates that at that time Congress was aware of the court decisions and what they were indicating, and that they struggled with the question of whether they should put limitations on the type of activities of these organizations. As indicated at first, there was a thought of putting in a phrase, excluding partisan activities and so forth. It finally ended up with the present language in 1934, no substantial part of activities which is carrying on propaganda or otherwise attempting to influence legislation. It is our view that that basically represents the insertion in the statute of what the courts had already decided.

Mr. HAYS. In other words, you think, sir, that is a limiting provision, rather than opening the gates?

Mr. SUGARMAN. It is a little bit of both, Mr. Hays. It is limiting in the sense that the court decisions were limiting in saying that attempting to influence legislation as a matter of public policy was not the type of thing Congress intended to grant exemptions or deductions for, and accordingly they would not recognize it as a proper activity if carried on to a substantial extent by an exempt organization.

It opens the gates only in the sense that by spelling out this particular type of propaganda or other activities, in the legislative field, that

indicates that Congress was not attempting to put limitations upon activities of organizations which might be considered educational even though in a controversial area, as long as it was not a legislative purpose.

The CHAIRMAN. Any other questions?

Mr. HAYS. I have one, yes. This is a hypothetical question. If you feel that it would be pushing you in a corner to answer it, I won't insist. It just occurred to me that it was an interesting thing.

I remember in studying history that several historians that I read said that one book more than any other had a tremendous influence on the abolition of slavery. I think you perhaps know what that is. Uncle Tom's Cabin. Suppose at the time this author, Harriet Beecher Stowe, had been working on a foundation grant, and there are a lot of authors working under them today, and she produced this book; would you hold that the foundation was guilty of activity designed to influence legislation under your definition now?

I will answer the question, and my guess is that you would not. But I just wondered.

Mr. SUGARMAN. Mr. Hays, may I preface my answer this way: We have a rule in the Revenue Service which is administratively necessary that we do not issue rulings on hypothetical cases. I don't say that to duck your question but simply to indicate that we try to steer clear of hypothetical cases, because we always find when we get them presented to us, there are always some more facts in the background, and for that reason any answer we give merely leads to further controversy when people try to compare the answer with actual facts, when someone examines the returns a few years later on.

To get to your point, if a foundation did make a grant to an individual who had the public effect of stirring the minds and imagination of the people and ultimately had an effect on legislation, we would hardly either grant or deny the exemption to the foundation on the basis of merely one book, because as I indicated, the statute requires that no substantial part of the activities be propaganda to influence legislation. I hardly think that in any sizable foundation, one book would make that much difference.

I would also want to add this other point in connection with it. As we indicated in the court decisions on the organization that was attempting to abolish alcoholism in the entire world, that in connection with its very ambitious program, the court indicated that the mere fact that others used its literature for legislative purposes did not prevent the organization from having its exemption.

Mr. HAYS. That is the question I am trying to get at. In other words, although this may be produced by foundation money and somebody uses it that doesn't make the foundation in violation because they made the grant in the first place?

Mr. SUGARMAN. I think that is right, although I would want to say that what we look to in that connection is the spirit with which the material was developed and intended to be used. Again, that is a word which is very difficult to define and apply. But basically I am getting back to this concept of educational methods which includes the matter of attempting to impart real information and knowledge. If it is written for subversive or other purposes, then of course we have a different situation.

Mr. HAYS. Thank you very much, Mr. Sugarman. May I ask in conclusion that I was briefed beforehand that you were very intelligent and hardworking, and that you would not be put into a corner by any questions I might ask. I am glad to find out that I didn't even need to be solicitous about it.

Mr. SUGARMAN. Thank you very much.

Mr. GOODWIN. One question for purposes of clarification in my own mind. I understand that when a taxpayer is aggrieved by action of the Bureau on exemptions, he has two options, first to pay the tax, and then to go after a refund, or to say that he won't pay the tax until he has prosecuted his appeal.

In the first instance he goes to the Court of Claims and in the second instance to the United States Tax Court?

Mr. SUGARMAN. In the first instance he has his choice of the Court of Claims or the United States District Court, depending upon the usual rules of jurisdiction of those courts.

Mr. GOODWIN. But he may go to the Court of Claims?

Mr. SUGARMAN. Yes.

Mr. GOODWIN. In the second instance, his right of appeal is to the United States Tax Court.

Mr. SUGARMAN. That is right.

Mr. GOODWIN. One other question. Is it a fact that since the original Revenue Act was written, and coming down through the period when there have been two or three revisions of the tax code, that the Congress has apparently shied away from any temptation to write new definitions into the law, or to attempt to amplify the meaning of the original terminology?

Mr. SUGARMAN. I think that is correct, sir. We had this addition in 1934, which, as I say it is my impression—

Mr. GOODWIN. Propaganda for political purposes.

Mr. SUGARMAN. That basically put into the statute what seems to reflect the court decisions. The next change came in 1950 when changes were proposed in the Revenue Code which go to the financial transactions of the organizations, represented by the so-called prohibited transactions and the accumulations of income by exempt organizations.

Mr. GOODWIN. Aren't those about the only two instances where the Congress has made any attempt to mess around with the original terminology?

Mr. SUGARMAN. Basically that is right, sir.

Mr. GOODWIN. Now, my final question: I want to put that to the Commissioner. Would it be a fair statement to say that this is an indication that the Congress is pretty well satisfied with the way the Bureau and the Department are interpreting the original terminology, and the way in which the courts are placing their decisions?

Commissioner ANDREWS. I think that is a fair conclusion, yes.

Mr. GOODWIN. Would it also be a fair statement to say that this also indicates, as applied to any temptation that there might be to spell out something with regard to application of the rule of exemptions to foundations, an indication that the Congress is pretty well satisfied with the behavior of the foundations themselves in cooperating?

Commissioner ANDREWS. I assume that would be an equally sound conclusion, yes, sir.

Mr. GOODWIN. That is all, Mr. Chairman.

The CHAIRMAN. There are two observations that I wish to make, and they may need no questions.

One was with respect to what was said about creating taxable income. The donations of the foundations are sterile in the sense that as long as the income of the foundations, when spent, gets into taxable transactions, that may result in increased taxes.

Commissioner ANDREWS. In part.

The CHAIRMAN. The capital of foundations is tax sterile until spent. During the course of your statement you made reference to the fact that most of these provisions in the law were enacted at a time when the tax rates comparatively were low. I am interested in the question that Mr. Wormser raised in one of his questions. In the event a tax exemption is withdrawn as a result of some violation that would justify the withdrawal, the capital or corpus of the foundation does not become taxable, as I understand it.

Commissioner ANDREWS. That is correct.

The CHAIRMAN. I realize there may be legal prohibitions that would make it very difficult to reach in the usual ways. It is a matter of considerable importance, it seems to me. Take, for example, some of the foundations whose tax-exempt status has been withdrawn as a result of violations, like the Garland Fund and the Marshall Fund, which I think under the findings of the Internal Revenue Service, had fallen into pretty bad practices. The foundations had gotten into unfortunate hands. The tax exemption was withdrawn. What position did that leave the people in who own the capital of those foundations? Were they free, then, to continue to spend the capital of the foundations as they saw fit after the tax exemption was withdrawn?

Mr. SUGARMAN. Sir, the only right we have in connection with organizations that may once have been exempt and are held no longer exempt is the same as that we have with other organizations, namely, to determine their taxable income, and to impose a tax on that income. We have no tax on the capital of organizations as such.

The CHAIRMAN. Take the Garland fund, for example; I think it is universally agreed that the Garland fund engaged in practices that would not be generally approved. I think it would be generally agreed that many of their activities were subversive. You withdraw the tax-exempt status. But that still left the capital of the Garland Fund to be spent in any way that the people in charge might wish to spend it. Still the capital of that fund was made possible through tax exemption, that is, possibly 85 per cent of it was as a result of the government or the people foregoing taxes and that found its way into the Garland Fund, and became the capital of that fund. So after all, it is possible if a foundation should fall into unfortunate hands that the entire capital that is made possible through tax exemption could be used even for subversive purposes or propaganda, lobbying or any activity which the people who at that time in charge of the fund might desire to spend the money for.

Mr. SUGARMAN. Mr. Chairman, those activities would not be matters over which we would have control unless there were some tax aspects. However, there might be other laws they might run afoul of such as the one I referred to previously in referring to the Internal Security Act, the matter of registration that is involved in that.

The CHAIRMAN. A more recent foundation was, I believe, called the Des Moines University Lawonomy. That sounds interesting to me.

As I understand it, this foundation called the Des Moines University of Lawsonomy was established—

Mr. HAYS. Would you tell me what that last word is?

The CHAIRMAN. The man who founded this university was named Lawson, so he called it Lawsonomy, as a charitable enterprise. After he set up his foundation and acquired a tax-exempt status, that gave him a good standing, we might say, and as I understand, he entered into business transactions and selling surplus commodities of the Government. We would all be disposed to a charitable activity of that kind to dispose of surplus commodities. He paid no taxes on that income because it flowed into the foundation. During the course of the foundation he violated the tax-exempt laws and the tax exemption was withdrawn, but he still had his few hundred thousand dollars that he acquired to spend in riotous living or any other purpose for which he desired to spend it. I am not criticizing, by what I am saying, the Internal Revenue Service, because the Internal Revenue Service stopped it as soon as it became evident what was happening, just as it did in the case of the Garland fund and the Marshall fund. But what I am pointing out is what appears to be a weakness.

It would be difficult to imagine, but a foundation with a capital of \$500,000 could possibly fall into unfortunate hands in the course of years—25, 50, 75—and even if the tax-exempt status should be withdrawn, the corpus of the foundation would still be available—without the payment of taxes—to be spent on any of these purposes which are proscribed by the law.

Commissioner ANDREWS. Mr. Reece, let me see if I understand what you are getting at. Your question is directed to what the situation is, as I understand it, when an exempt organization or a previously exempt organization is declared no longer exempt, but still has on hand a substantial amount of money that it has been allowed to receive without taxation. Is that it?

The CHAIRMAN. That is right.

Commissioner ANDREWS. I just asked Mr. Sugarman a moment ago on the side what the situation would be there from the standpoint of perhaps asserting a tax on that portion of those funds received back to the point where the statute of limitations might run, assuming that the condition that gave rise to the declaration of nonexempt status existed back as far as that. I didn't hear exactly what he said, but I got the impression that he said that would be a pretty fine legal point, and I would certainly have to agree with that.

Mr. WORMSER. Mr. Chairman, may I introduce another thought which might help this discussion?

Would it be possible, do you suppose, to change the law making all initial gift taxes or State-tax exemptions for charitable contributions permanently conditional, so that the statute of limitations would not run, and if the organization were later declared to be subversive or engaged in something nefarious, retroactively then the original exemption to the extent that the funds remained could be withdrawn?

Mr. HAYS. May I add one to that, and amend that a little bit? How about this 27½ percent oil depletion allowance. You might get some nefarious characters accumulating capital that way. If you are going to amend this, you might put that in so if they did anything nefarious you might take that away from them. It is a possibility here.

Mr. SUGARMAN. Mr. Chairman, just as a thought by way of background on this particular problem, I would like to call your attention to the fact that in 1950 the Congress had somewhat the same problem under consideration in connection with the so-called prohibited transactions in regard to organizations, funds of which were being used to promote various business and other activities of the people who founded the foundations. In that, Congress was fairly careful in the authority which it gave the Department with regard to revoking the exemption of any organization because of prohibited transactions. I would like to read the provision that Congress inserted into the law at that time.

This is in section 3813 of the Internal Revenue Code.

An organization shall be denied exemption from taxation under section 101 (6) by reason of paragraph 1 (that is the prohibited transaction provision) only for taxable years subsequent to the taxable year during which it is notified by the Secretary of the Treasury that it has engaged in a prohibited transaction.

So it required us to give notice and then the effect of that notice would only be beginning with the following year.

Unless such organization entered into such prohibited transactions with the purpose of diverting corpus or income from its exempt purpose and such transaction involved a substantial part of the corpus or income of such organization.

The limitations on a future application of that revocation you will note would place a considerable burden in determining the facts of such diversion or the purposes.

The CHAIRMAN. I brought that up largely for the purpose of calling attention to that condition which does obtain which would seem to me to be somewhat serious even at present and potentially more so. I have this in mind. I don't know whether it would be feasible or not. We speak about foundations and we are not clear in our minds as to just how the funds for the foundations come about, and at whose sacrifice the funds come about. In that connection I was impressed with what you said in your statement that these provisions of the law came into being at a time when comparatively the rates were very low. I am wondering if it would be practicable to take one of the foundations that has been set up—one of the larger foundations which has been set up—more or less under our present tax structure, and indicate what the taxes on that estate would have been had it been disposed of in the usual way to individuals, members of the family, or otherwise, and then the amount of taxes that was paid when provision was made for the foundation. Of course, the one outstanding example naturally is the Ford Foundation. I just wonder if it would be practicable to give us on one of these large foundations the percentage of the capital that came about as a result of foregoing the payment of taxes which would otherwise have been paid?

Mr. SUGARMAN. Mr. Chairman, I am sure we would be glad to make a computation on any case you would care to name on which we have records. I would merely like to suggest that one difficulty in that regard. The current planning of people of course is based upon existing law which includes an unlimited deduction for estate- and gift-tax purposes, of contributions to these organizations. Should that law be different, I think we can assume that people might plan their affairs differently. For example, if there were a limitation on the amount of deduction for estate-tax purposes to these foundations people might well plan their affairs so as to have a smaller estate at

death, and to transmit more of their property during life and obtain the advantages of whatever deductions would be available to them during life. So I would merely like to suggest that while a comparison could be made on the basis of all exemption or no exemption under existing law in any particular case, I think we would have no assurance that such case would actually occur if the exemption had been denied.

Mr. HAYS. May I interject a comment there if you will yield?

The CHAIRMAN. Yes.

Mr. HAYS. Mr. Wormser, our counsel, is an expert on this business of planning estates so you don't have to get "clipped" any more than you have to on taxes.

Mr. WORMSER. Would you like me to show you how to do it, Mr. Hays?

Mr. HAYS. I have your book, but my problem now is to get the estate to plan.

Mr. WORMSER. That is one thing I don't know anything about.

Commissioner ANDREWS. Mr. Hays, I don't think you need to worry about that as long as you have the present law. You won't have to worry about that.

The CHAIRMAN. Anyway, would one be justified in stating in an overall way that where a foundation of 3, 4, or 5 million dollars was set up, that 85 percent of that is the result of exemption of taxes?

Mr. SUGARMAN. Frankly, Mr. Chairman, offhand I would not be able to express a judgment on any particular figure.

The CHAIRMAN. I realize that. Are there any other questions?

Mr. HAYS. You have opened one there that I just want to ask about. You asked Mr. Andrews if funds that are not spent by these foundations are not sterile until spent taxwise, and I believe your answer was that they are. Isn't that about what you said? I am not trying to rephrase it.

Commissioner ANDREWS. In a sense that they never were taxed, assuming that all of it came from tax-exempt contributions, and to the extent they remain in the foundation or whatever type of organization it is unspent, and undisbursed, they, of course, are not producing any tax revenue.

Mr. HAYS. Undivided profits would go in the same category, would they not, as long as they are not divided and remain, for instance, in a bank? Some banks carry quite a sizable amount of money in undivided profits.

Commissioner ANDREWS. On the other hand, generally speaking your undivided profits or undistributed earnings of business organizations presumably are producing economic activity which creates income and that gives you taxes.

Mr. HAYS. Yes, I agree with that, and I wondered if you were not saying that. This money that the foundations have and have not spent, they don't have that in a bag in the vault some place. They have it doing exactly the same thing as undivided profits in a bank.

Commissioner ANDREWS. It is producing income to the extent that it is invested. But it is producing rent on capital, rather than producing goods or having to do directly with the distribution of goods.

Mr. HAYS. I am not finding fault with the undivided profits. I just want to make the point that it is sterile as far as producing taxes

are concerned until such time as it is divided, the same as the foundation money is sterile until the time it is spent.

The CHAIRMAN. Would the gentleman yield?

Mr. HAYS. Surely.

The CHAIRMAN. If I am not badly misinformed, the earnings that are passed on to the surplus fund in a bank, you pay the income on before they go into the fund of undivided profits. So if you found some way of avoiding the payment of that income tax in transferring the earnings over to the undivided profits, I would like to have you advise me.

Mr. HAYS. I think it might be possible to advise you because the banks seem to have a feeling that they save on taxes by transferring certain amounts of money into undivided profits as a sort of hedge and reserve. Certainly they would pay more taxes on it if they distributed it as dividends to their shareholders.

The CHAIRMAN. I don't want to speak for the banks—

Mr. HAYS. I have a little personal interest, and maybe we could get some free advice from the Commissioner.

The CHAIRMAN. There is no way by which a bank can avoid paying the tax on its earnings merely by transferring those earnings into undivided profits.

Mr. HAYS. Of course they can't. I think we are talking about two different things. I was looking at it from the standpoint until that money goes out from the bank in the form of dividends or until this foundation money goes out in the form of grants, that they are in a comparable situation.

The CHAIRMAN. No. The Commissioner and his minions are only there at the end of the year. They don't wait until they are paid out.

Mr. HAYS. They get more when it is paid out.

One other thing I might ask you, Mr. Sugarman. You mentioned this morning, and I think you used the words, comparatively few foundations have strayed from the original purposes that they were set up for. Would you be able, not today, because you perhaps don't have it at your fingertips, a little later advise the committee how many have strayed? Maybe you have it right there.

Mr. SUGARMAN. I think I can give you some information on that in regard to figures we collected for a prior period which I do not think is substantially different today. That is, in the 2-year period ending June 30, 1952, we had revoked the exemption during that 2-year period, not for all time, of 55 organizations that previously had been granted exemption in the category that we are talking about.

Mr. HAYS. In order to get some sort of basis of comparison or a percentage figure, 55 out of how many approximately that have that status?

Mr. SUGARMAN. I think this covered the group in excess of 30,000 that is in our category or organizations contributions to which are deductible, principally the 101 (6) organizations.

Mr. HAYS. That answers the question very satisfactorily. Thank you. I have one more question, and perhaps the Commissioner won't care to comment on that, but I would like to preface it by a preliminary question.

What percentage of the total revenues of the Government come from the income tax? Could you give us a rough idea?

Commissioner ANDREWS. You mean the individual income tax?

Mr. HAYS. All income tax, individual, corporate, and so on.

Commissioner ANDREWS. I would have to check that to answer in a formal hearing of this kind. I could give you that.

Mr. HAYS. It does not really matter. Would you say a substantial part?

Commissioner ANDREWS. A very large part of it; practically all of it.

Mr. HAYS. That brings me to the \$64 question, and if you don't want to comment on it, you don't need to. But one of the witnesses we had before this committee, and he and I got into a friendly discussion about it, made the flat statement that the income tax was a socialist plot and that it had been foisted off on this unsuspecting country of ours and it is part of a big plot to destroy us. Would you care to comment on that?

Commissioner ANDREWS. No, I don't think I want to comment on that. I don't know the full context of what the gentleman said. Besides, it doesn't fit into the question of tax administration. I think I better let that one pass.

Mr. HAYS. Whether or not it is a plot, you have it on the books and you are going to collect them.

Commissioner ANDREWS. Whatever may be the purpose of this tax system we have, it is my job to get the money.

Mr. HAYS. That is why I say plot or not, it is on the books and you are going to collect it.

Commissioner ANDREWS. I am probably in the Light Brigade. It is not my business to reason why, but to do what the law says do.

Mr. HAYS. I won't press it further.

Mr. WORMSER. Mr. Chairman, may I ask one final question? This is merely for our education. I have the impression, Mr. Andrews, that the high rates of taxation in recent years have very materially increased the incidence of foundations. I don't say that unhappily because I happen to like foundations. In fact, I have helped organize plenty of them. But there has been a growing tendency to use foundations to solve business problems, the problems of liquidating estates which would be frozen if the decedent left chiefly corporate taxes, and had very little capital and so also solve problems of continuing businesses as such.

Moreover, there has been also, I believe, a marked tendency by corporations themselves to create their own foundations, not merely to distribute their 5 percent charitable grants for the year, but also to do perfectly properly those charitable things which may be incidentally useful to their own businesses.

Has that not been that marked tendency in recent years?

Commissioner ANDREWS. There is no doubt in the world about that.

Mr. WORMSER. I am not saying that critically. As a matter of fact, I like it. I think it is a good thing.

The CHAIRMAN. Mr. Commissioner and Assistant Commissioner, we appreciate very greatly your coming up today. We had not anticipated taking this much time, which makes us doubly appreciative. Your testimony has been very enlightening to the inquiry which the committee has underway. As far as I know, I believe it is the most comprehensive presentation made by the Internal Revenue Service on this subject before one of these committees, and we thank you very, very kindly.

Mr. HAYS. I would like to concur, Mr. Chairman, and to thank you for the minority, and to compliment you on the presentation, and to say to you that if you gentlemen could get yourselves on television a little bit, I think it would add to the public relations of the tax-collecting department, and the people wouldn't think that tax collectors are as bad as somebody makes them out to be.

Commissioner ANDREWS. I might say, Mr. Hays, that in our modest sort of way we take advantage of occasional opportunities to do that.

The CHAIRMAN. If there is a television representative present—

Commissioner ANDREWS. If we have been able to assist the committee in its understanding of this problem, of course we are happy. The time element is not important to us except to the extent that we want to give you gentlemen whatever time you may need from us. Anytime we can help you, let us know.

The CHAIRMAN. Thank you very much.

Commissioner ANDREWS. Thank you, sir.

The CHAIRMAN. It is of course too late to call any other witness. When the committee adjourns, it will adjourn to meet at 10 o'clock tomorrow in room 304, Old House Office Building. That is the Armed Services Subcommittee room in which we met 1 day last week. It happens that Mr. Wolcott is having a meeting of his committee in this room tomorrow so it is not available. We hope it will be available after tomorrow.

(Thereupon at 4:15 p.m., a recess was taken, the committee to reconvene at 10 a. m., in room 304, Old House Office Building.)

